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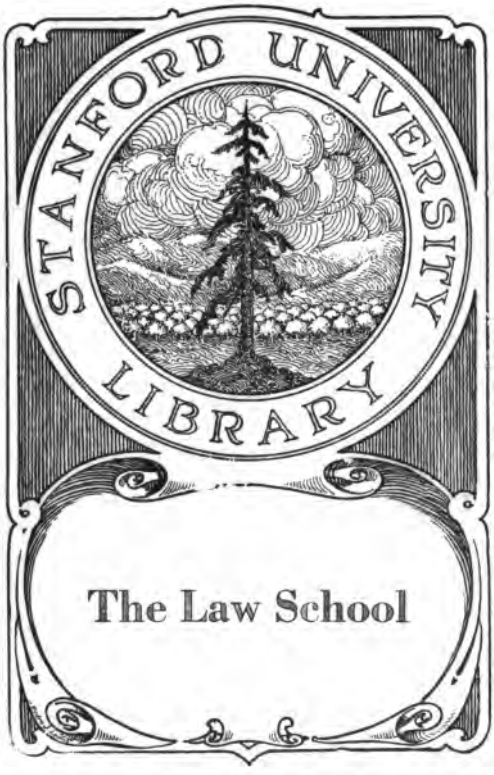

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FIFTIETH GENERAL ASSEMBLY

OF THE

STATE OF OHIO:

(FIRST SESSION UNDER THE CONSTITUTION OF 1851:)

BEGUN AND HELD IN THE CITY OF COLUMBUS,

JANUARY 5, 1852:

AND IN THE FIFTIETH YEAR OF SAID STATE.

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CONSTITUTION

OF THE

STATE OF OHIO.

We, the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this Constitution.

ARTICLE I.

BILL OF RIGHTS.

Section 1. All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety. Right to freedom and protection of property.

Sec. 2. All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the General Assembly. Right to alter, reform, or abolish government, and repeal special privileges.

Sec. 3. The people have the right to assemble together, in a peaceable manner, to consult for their common good; to instruct their Representatives; and to petition the General Assembly for the redress of grievances. Of the right to assemble.

Sec. 4. The people have the right to bear arms for their defence and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power. Of bearing arms; standing armies; subordination of military power

Sec. 5. The right of trial by jury shall be inviolate. Trial by jury.

Of slavery, and involuntary servitude.

SEC. 6. There shall be no slavery in this State; nor involuntary servitude, unless for the punishment of crime.

Of the rights of conscience.

SEC. 7. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted. No religious test shall be required, as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the General Assembly to pass suitable laws, to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

The necessity of religion & knowledge.

Of the writ of habeas corpus.

SEC. 8. The privilege of the writ of habeas corpus shall not be suspended, unless, in case of rebellion or invasion, the public safety require it.

Bailable offences

SEC. 9. All persons shall be bailable by sufficient sureties, except for capital offences where the proof is evident, or the presumption great. Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted.

Of bail, fine and punishment.

SEC. 10. Except in cases of impeachment, and cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and in cases of petit larceny and other inferior offences, no person shall be held to answer for a capital, or otherwise infamous crime, unless on presentment or indictment of a grand jury. In any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district, in which the offence is alleged to have been committed; nor shall any person be compelled, in any crimi-

Of the trial of accused persons and their rights.

nal case, to be a witness against himself, or be twice put in jeopardy for the same offence.

Of the freedom of speech and of the press.

SEC. 11. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury, that the matter charged as libelous is true, and was publishedwith good motives, and for justifiable ends, the party shall be acquitted.

Of libels.

Transportation, &c. for crimes.

SEC. 12. No person shall be transported out of the State, for any offence committed within the same; and no conviction shall work corruption of blood, or forfeiture of estate.

Of quartering troops.

SEC. 13. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war, except in the manner prescribed by law.

Search warrants and general warrants.

SEC. 14. The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures shall not be violated; and no warrant shall issue, but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the person and things to be seized.

No imprisonment for debt.

SEC. 15. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud.

Of redress in courts.

SEC. 16. All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law; and justice administered without denial or delay.

Hereditary privileges, &c.

SEC. 17. No hereditary emoluments, honors, or privileges, shall ever be granted or conferred by this State.

Suspension of laws.

SEC. 18. No power of suspending laws shall ever be exercised, except by the General Assembly.

Of the inviolability of private property.

SEC. 19. Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war or other public exigency, imperatively requiring its immediate seizure or for the purpose of making or repairing roads, which shall be open to the public, without charge, a compensation shall be made to the owner, in money, and in all other cases, where private property shall be taken for pub-

lic use, a compensation therefor shall first be made in money, or first secured by a deposit of money; and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.

Powers reserved to the people.

SEC. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers, not herein delegated, remain with the people.

ARTICLE II.

LEGISLATIVE.

In whom legislative power is vested.

SECTION 1. The Legislative power of this State shall be vested in a General Assembly, which shall consist of a Senate, and House of Representatives.

When chosen.

SEC. 2. Senators and Representatives shall be elected biennially, by the electors in the respective counties or districts, on the second Tuesday of October; their term of office shall commence on the first day of January next thereafter, and continue two years.

Residence.

SEC. 3. Senators and Representatives shall have resided in their respective counties, or districts, one year next preceding their election, unless they shall have been absent on the public business of the United States, or of this State.

Eligibility.

SEC. 4. No person holding office under the authority of the United States, or any lucrative office under the authority of this State, shall be eligible to, or have a seat in, the General Assembly; but this provision shall not extend to township officers, justices of the peace, notaries public, or officers of the militia.

Who shall not hold office.

SEC. 5. No person hereafter convicted of an embezzlement of the public funds, shall hold any office in this State; nor shall any person, holding public money for disbursement, or otherwise, have a seat in the General Assembly, until he shall have accounted for, and paid such money into the treasury.

Powers of each House.

SEC. 6. Each House shall be judge of the election, returns, and qualifications of its own members; a majority of all the members elected to each House, shall be a quorum to do business; but, a less number may adjourn from day to day, and compel the attendance of absent members, in such manner, and under such penalties, as shall be prescribed by law.

Organization of House of Representatives.

SEC. 7. The mode of organizing the House of Representatives, at the commencement of each regular session, shall be prescribed by law.

Rules and right of punishment and expulsion.

SEC. 8. Each House, except as otherwise provided in this constitution, shall choose its own officers, may determine its own rules of proceeding, punish its members for disorderly conduct; and, with the concurrence of two-thirds, expel a member, but not the second time for the same cause; and, shall have all other powers, necessary to provide for its safety, and the undisturbed transaction of business.

Journal and yeas and nays.

SEC. 9. Each House shall keep a correct journal of its proceedings, which shall be published. At the desire of any two members, the yeas and nays shall be entered upon the journal; and, on the passage of every bill, in either House, the vote shall be taken by yeas and nays, and entered upon the journal; and no law shall be passed, in either House, without the concurrence of a majority of all the members elected thereto.

Right of members to protest.

SEC. 10. Any member of either House shall have the right to protest against any act, or resolution thereof; and such protest, and the reasons therefor, shall, without alteration, commitment, or delay, be entered upon the journal.

Vacancies in either House, how filled.

SEC. 11. All vacancies which may happen in either House shall, for the unexpired term, be filled by election, as shall be directed by law.

Privilege of members from arrest, and of speech.

SEC. 12. Senators and Representatives, during the session of the General Assembly, and in going to, and returning from the same, shall be privileged from arrest, in all cases, except treason, felony, or breach of the peace; and for any speech, or debate, in either House, they shall not be questioned elsewhere.

When session to be public.

SEC. 13. The proceedings of both Houses shall be public, except in cases which, in the opinion of two-thirds of those present, require secrecy.

Power of adjournment.

SEC. 14. Neither House shall, without the consent of the other, adjourn for more than two days, Sundays excluded; nor to any other place than that, in which the two Houses shall be in session.

Where bills shall originate.

SEC. 15. Bills may originate in either House; but may be altered, amended, or rejected in the other.

Bills to be read three times.

SEC. 16. Every bill shall be fully and distinctly read, on three different days, unless, in case of urgency, three-fourths of the House, in which it shall be pending, shall dispense with this rule. No bill shall contain more than one subject, which shall be clearly expressed in its title; and no law shall be revived, or amended, unless the new act contain the entire act revived, or the section or sections amended; and the section, or sections, so amended, shall be repealed.

Not to contain more than one subject.

Acts revived or amended.

To be signed by presiding officers

SEC. 17. The presiding officer of each House shall sign, publicly in the presence of the House over which he presides, while the same is in session, and capable of transacting business, all bills and joint resolutions passed by the General Assembly.

Style of laws.

SEC. 18. The style of the laws of this State shall be, "*Be it enacted by the General Assembly of the State of Ohio.*"

Exclusion from office.

SEC. 19. No Senator or Representative shall, during the term for which he shall have been elected, or for one year thereafter, be appointed to any civil office under this State, which shall be created or the emoluments of which, shall have been increased, during the term, for which he shall have been elected.

Term of office, and compensation of officers in certain cases.

SEC. 20. The General Assembly, in cases not provided for in this constitution, shall fix the term of office and the compensation of all officers; but no change therein shall affect the salary of any officer during his existing term, unless the office be abolished.

Contested elections.

SEC. 21. The General Assembly shall determine, by law, before what authority, and in what manner, the trial of contested elections shall be conducted.

Appropriations.

SEC. 22. No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years.

Impeachment, how instituted and conducted.

SEC. 23. The House of Representatives shall have the sole power of impeachment, but a majority of the members elected must concur therein. Impeachments shall be tried by the Senate; and the Senators, when sitting for that purpose, shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the Senators.

Who liable to impeachment and punishment.

SEC. 24. The Governor, Judges, and all State officers, may be impeached for any misdemeanor in office; but judgment shall not extend further than removal from office, and disqualification to hold any office, under the authority of this State. The party impeached, whether convicted or not, shall be liable to indictment, trial, and judgment, according to law.

When session to commence.

SEC. 25. All regular sessions of the General Assembly shall commence on the first Monday of January, biennially. The first session, under this constitution, shall commence on the first Monday of January, one thousand eight hundred and fifty-two.

What laws to have a uniform operation.

SEC. 26. All laws, of a general nature, shall have a uniform operation throughout the State; nor, shall any act, except such as relates to public schools, be passed, to take effect upon the approval of any other authority than the General Assembly, except, as otherwise provided in this constitution.

Election and appointment of officers and the filling of vacancies

SEC. 27. The election and appointment of all officers, and the filling of all vacancies, not otherwise provided for by this constitution, or the constitution of the United States, shall be made in such manner as may be directed by law; but no appointing power shall be exercised by the General Assembly, except as prescribed in this constitution, and in the election of United States Senators; and in these cases, the vote shall be taken "*viva voce.*"

Vote for United States Senator to be *viva voce.*

Retro-active laws.

SEC. 28. The General Assembly shall have no power to pass retro-active laws, or laws impairing the obligation of contracts; but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties, and officers, by curing omissions, defects, and errors, in instruments and proceedings, arising out of their want of conformity with the laws of this State.

No extra compensation.

SEC. 29. No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor, shall any money be paid, on any claim, the subject matter of which shall not have been provided for by pre-existing law, unless such compensation, or claim, be allowed by two-thirds of the members elected to each branch of the General Assembly.

New counties.

SEC. 30. No new county shall contain less than four hundred square miles of territory, nor, shall any county be re-

duced below that amount; and all laws creating new counties, changing county lines, or removing county seats, shall, before taking effect, be submitted to the electors of the several counties to be affected thereby, at the next general election after the passage thereof, and be adopted by a majority of all the electors voting at such election, in each of said counties; but any county now or hereafter containing one hundred thousand inhabitants, may be divided, whenever a majority of the voters, residing in each of the proposed divisions, shall approve of the law passed for that purpose; but, no town or city within the same, shall be divided, nor, shall either of the divisions contain less than twenty thousand inhabitants.

Compensation of members and officers of General Assembly.

SEC. 31. The members and officers of the General Assembly shall receive a fixed compensation, to be prescribed by law, and no other allowance or perquisites, either in the payment of postage or otherwise; and no change in their compensation shall take effect during their term of office.

Divorces and judicial power.

SEC. 32. The General Assembly shall grant no divorce, nor, exercise any judicial power, not herein expressly conferred.

ARTICLE III.

EXECUTIVE.

Executive Department.

SEC. 1. The Executive Department shall consist of a Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, and an Attorney General, who shall be chosen by the electors of the State, on the second Tuesday of October, and at the places of voting for members of the General Assembly.

Term of office.

SEC. 2. The Governor, Lieutenant Governor, Secretary of State, Treasurer, and Attorney General shall hold their offices for two years; and the Auditor for four years. Their terms of office shall commence on the second Monday of January next after their election, and continue until their successors are elected and qualified.

Election returns

SEC. 3. The returns of every election for the officers, named in the foregoing section, shall be sealed up and transmitted to the seat of Government, by the returning officers, directed to the President of the Senate, who, during the first

week of the session, shall open and publish them, and declare the result, in the presence of a majority of the members of each House of the General Assembly. The person having the highest number of votes shall be declared duly elected; but if any two or more shall be highest, and equal in votes, for the same office, one of them shall be chosen by the joint vote of both Houses.

Same subject.

SEC. 4. Should there be no session of the General Assembly in January next after an election for any of the officers aforesaid, the returns of such election shall be made to the Secretary of State, and opened, and the result declared by the Governor, in such manner as may be provided by law.

Executive power vested in Governor.

SEC. 5. The supreme executive power of this State shall be vested in the Governor.

He may require written information, &c.

SEC. 6. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices; and shall see that the laws are faithfully executed.

He shall recommend measures, &c.

SEC. 7. He shall communicate at every session, by message, to the General Assembly, the condition of the State, and recommend such measures as he shall deem expedient.

When and how he may convene the General Assembly.

SEC. 8. He may, on extraordinary occasions, convene the General Assembly by proclamation, and shall state to both Houses, when assembled, the purpose for which they have been convened.

When he may adjourn the General Assembly.

SEC. 9. In case of disagreement between the two Houses, in respect to the time of adjournment, he shall have power to adjourn the General Assembly to such time as he may think proper, but not beyond the regular meetings thereof.

Commander-in-chief of militia.

SEC. 10. He shall be commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States.

May grant reprieves, commutations and pardons.

SEC. 11. He shall have power, after conviction, to grant reprieves, commutations, and pardons, for all crimes and offences, except treason and cases of impeachment, upon such conditions as he may think proper; subject, however, to such regulations, as to the manner of applying for pardons, as may be prescribed by law. Upon conviction for treason, he may suspend the execution of the sentence, and report the case to the General Assembly, at its next meeting, when the General

Assembly shall either pardon, commute the sentence, direct its execution, or grant a further reprieve. He shall communicate to the General Assembly, at every regular session, each case of reprieve, commutation, or pardon granted, stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon, or reprieve, with his reasons therefor.

Seal of State, & by whom kept.

SEC. 12. There shall be a seal of the State, which shall be kept by the Governor, and used by him officially; and shall be called "The Great Seal of the State of Ohio."

How grants and commissions issued.

SEC. 13. All grants and commissions shall be issued in the name, and by the authority, of the State of Ohio; sealed with the Great Seal; signed by the Governor, and countersigned by the Secretary of State.

Who ineligible for Governor.

SEC. 14. No member of Congress, or other person holding office under the authority of this State, or of the United States, shall execute the office of Governor, except as herein provided.

Who shall fill his place when vacancy occurs.

SEC. 15. In case of the death, impeachment, resignation, removal, or other disability of the Governor, the powers and duties of the office, for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the Lieutenant Governor.

Lieutenant Governor.

SEC. 16. The Lieutenant Governor shall be President of the Senate, but shall vote only when the Senate is equally divided; and in case of his absence, or impeachment, or when he shall exercise the office of Governor, the Senate shall choose a President *pro tempore*.

If vacancy shall occur while executing the office of Governor, who shall act.

SEC. 17. If the Lieutenant Governor, while executing the office of Governor, shall be impeached, displaced, resign or die, or otherwise become incapable of performing the duties of the office, the President of the Senate shall act as Governor, until the vacancy is filled, or the disability removed; and if the President of the Senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of Governor, the same shall devolve upon the Speaker of the House of Representatives.

What vacancies Governor to fill.

SEC. 18. Should the office of Auditor, Treasurer, Secretary, or Attorney General, become vacant, for any of the causes specified in the fifteenth section of this article, the Governor

shall fill the vacancy until the disability is removed, or a successor elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after it shall have happened; and the person chosen shall hold the office for the full term fixed in the second section of this article.

Compensation.

SEC. 19. The officers mentioned in this article shall, at stated times, receive for their services, a compensation to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

Officers to report to Governor, and when.

SEC. 20. The officers of the executive department, and of the public State Institutions shall, at least five days preceding each regular session of the General Assembly, severally report to the Governor, who shall transmit such reports, with his message, to the General Assembly.

ARTICLE IV.

JUDICIAL.

In whom judicial power vested.

SEC. 1. The judicial power of the State shall be vested in a supreme court, in district courts, courts of common pleas, courts of probate, justices of the peace, and in such other courts, inferior to the supreme court, in one or more counties, as the General Assembly, may, from time to time establish.

The supreme court.

SEC. 2. The supreme court shall consist of five judges, a majority of whom shall be necessary to form a quorum, or to pronounce a decision. It shall have original jurisdiction in quo warranto, mandamus, habeas corpus, and procedendo, and such appellate jurisdiction as may be provided by law. It shall hold at least one term in each year, at the seat of government, and such other terms, at the seat of government, or elsewhere, as may be provided by law. The Judges of the supreme court shall be elected, by the electors of the State at large.

The common pleas.

SEC. 3. The State shall be divided into nine common pleas districts, of which the county of Hamilton shall constitute one, of compact territory, and bounded by county lines; and each of said districts, consisting of three or more counties, shall be

subdivided into three parts, of compact territory, bounded by county lines, and as nearly equal in population as practicable; in each of which, one Judge of the court of common pleas for said district, and residing therein, shall be elected by the electors of said subdivision. Courts of common pleas shall be held, by one or more of these Judges in every county in the district, as often as may be provided by law; and more than one court, or sitting thereof, may be held at the same time in each district.

Their jurisdiction.

SEC. 4. The jurisdiction of the courts of common pleas, and of the Judges thereof, shall be fixed by law.

District Courts.

SEC. 5. District courts shall be composed of the Judges of the court of common pleas of the respective districts, and one of the Judges of the supreme court, any three of whom shall be a quorum, and shall be held in each county therein, at least once in each year, but, if it shall be found inexpedient to hold such court annually, in each county, of any district, the General Assembly may, for such district, provide that said court shall hold at least three annual sessions therein, in not less than three places: Provided, that the General Assembly may, by law, authorize the Judges of each district to fix the times of holding the courts therein.

Their jurisdiction.

SEC. 6. The district court shall have like original jurisdiction with the supreme court, and such appellate jurisdiction as may be provided by law.

Probate Courts.

SEC. 7. There shall be established in each county, a Probate court, which shall be a court of record, open at all times, and holden by one Judge, elected by the voters of the county, who shall hold his office for the term of three years, and shall receive such compensation, payable out of the county treasury, or by fees, or both, as shall be provided by law.

Their jurisdiction.

SEC. 8. The Probate court shall have jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators and guardians, and such jurisdiction in nabeas corpus, the issuing of marriage licenses, and for the sale of land by executors, administrators and guardians, and such other jurisdiction, in any county, or counties, as may be provided by law.

Justices of the Peace.

SEC. 9. A competent number of justices of the peace shall be elected, by the electors, in each township in the several counties. Their term of office shall be three years, and their powers and duties shall be regulated by law.

Other judges.

SEC. 10. All Judges, other than those provided for in this constitution, shall be elected by the electors of the judicial district for which they may be created, but not for a longer term of office than five years.

Classification of Supreme judges.

SEC. 11. The Judges of the Supreme Court shall, immediately after the first election under this constitution, be classified by lot, so that one shall hold for the term of one year, one for two years, one for three years, one for four years, and one for five years; and, at all subsequent elections, the term of each of said Judges shall be for five years.

Common Pleas judges, their term of office and residence.

SEC. 12. The Judges of the courts of common pleas shall, while in office, reside in the district for which they are elected, and their term of office shall be for five years.

Vacancies, how filled.

SEC. 13. In case the office of any Judge shall become vacant, before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the Governor, until a successor is elected and qualified; and such successor shall be elected for the unexpired term, at the first annual election that occurs more than thirty days after the vacancy shall have happened.

Compensation of judges.

SEC. 14. The Judges of the supreme court, and of the court of common pleas, shall, at stated times, receive, for their services, such compensation as may be provided by law, which shall not be diminished, or increased, during their term of office; but they shall receive no fees or perquisites, nor hold any other office of profit or trust, under the authority of this State, or the United States. All votes for either of them, for any elective office, except a judicial office, under the authority of this State, given by the General Assembly, or the people, shall be void.

Ineligible to other offices.

Number of judges may be increased or diminished, districts altered, and other courts established.

SEC. 15. The General Assembly may increase, or diminish, the number of the Judges of the supreme court, the number of the districts of the court of common pleas, the number of Judges in any district, change the districts, or the subdivisions thereof, or establish other courts, whenever two-thirds of the members elected to each House shall concur therein; but no such change, addition, or diminution, shall vacate the office of any judge.

Clerks of courts

SEC. 16. There shall be elected in each county, by the electors thereof, one clerk of the court of common pleas, who shall hold his office for the term of three years, and until his successor shall be elected and qualified. He shall, by virtue of his office, be clerk of all other courts of record held therein; but the General Assembly may provide, by law, for the election of a clerk, with a like term of office, for each or any other of the courts of record, and may authorize the Judge of the Probate court to perform the duties of clerk for his court, under such regulations as may be directed by law. Clerks of Courts shall be removable for such cause, and in such manner, as shall be prescibed by law.

Judges removable

SEC. 17. Judges may be removed from office, by concurrent resolution of both Houses of the General Assembly, if two-thirds of the members, elected to each House, concur therein; but, no such removal shall be made, except upon complaint, the substance of which shall be entered on the journal, nor, until the party charged shall have had notice thereof, and an opportunity to be heard.

Powers and jurisdiction.

SEC. 18. The several Judges of the supreme court, of the common pleas, and of such other courts as may be created, shall, respectively, have and exercise such power and jurisdiction, at chambers, or otherwise, as may be directed by law.

Courts of Conciliation.

SEC. 19. The General Assembly may establish courts of Conciliation, and prescribe their powers and duties; but such courts shall not render final judgment in any case, except upon submission, by the parties, of the matter in dispute, and their agreement to abide such judgment.

Style of process, prosecution and indictment.

SEC. 20. The style of all process shall be, "The State of Ohio;" all prosecutions shall be carried on, in the name, and by the authority, of the State of Ohio; and all indictments shall conclude, "against the peace and dignity of the State of Ohio."

ARTICLE V.

ELECTIVE FRANCHISE.

Who may vote.

SEC. 1. Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county,

township, or ward, in which he resides, such time as may be provided by law, shall have the qualifications of an elector, and be entitled to vote at all elections.

By ballot.

SEC. 2. All elections shall be by ballot.

Voters, when privileged from arrest.

SEC. 3. Electors, during their attendance at elections, and in going to, and returning therefrom, shall be privileged from arrest, in all cases, except treason, felony, and breach of the peace.

Forfeiture of elective franchise.

SEC. 4. The General Assembly shall have power to exclude from the privilege of voting, or of being eligible to office, any person convicted of bribery, perjury, or other infamous crime.

Persons not considered residents of the State.

SEC. 5. No person in the Military, Naval, or Marine service of the United States, shall, by being stationed in any garrison, or military, or naval station, within the State, be considered a resident of this State.

Idiots or insane persons.

SEC. 6. No idiot, or insane person, shall be entitled to the privileges of an elector.

ARTICLE VI.

EDUCATION.

Funds for educational and religious purposes

SEC. 1. The principal of all funds, arising from the sale, or other disposition of lands, or other property, granted or entrusted to this State for educational and religious purposes, shall forever be preserved inviolate, and undiminished; and, the income arising therefrom, shall be faithfully applied to the specific objects of the original grants, or appropriations.

School funds.

SEC. 2. The General Assembly shall make such provisions, by taxation, or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the State; but, no religious or other sect, or sects, shall ever have any exclusive right to, or control of, any part of the school funds of this State.

ARTICLE VII.

PUBLIC INSTITUTIONS.

Insane, Blind, and Deaf and Dumb.

SEC. 1. Institutions for the benefit of the insane, blind, and deaf and dumb, shall always be fostered and supported by the

State; and be subject to such regulations as may be prescribed by the General Assembly.

Directors of Penitentiary, Trustees of Benevolent and other State Institutions, how appointed.

SEC. 2. The directors of the Penitentiary shall be appointed or elected in such manner as the General Assembly may direct; and the trustees of the benevolent, and other State institutions, now elected by the General Assembly, and of such other State institutions as may be hereafter created, shall be appointed by the Governor, by and with the advice and consent of the Senate; and, upon all nominations made by the Governor, the question shall be taken by yeas and nays, and entered upon the journals of the Senate.

Vacancies, how filled.

SEC. 3. The Governor shall have power to fill all vacancies that may occur in the offices aforesaid, until the next session of the General Assembly, and, until a successor to his appointee shall be confirmed and qualified.

ARTICLE VIII.

PUBLIC DEBT AND PUBLIC WORKS.

Public debt;

SEC. 1. The State may contract debts, to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the General Assembly, or at different periods of time, shall never exceed seven hundred and fifty thousand dollars; and the money, arising from the creation of such debts, shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

Additional debt, and for what purposes.

SEC. 2. In addition to the above limited power, the State may contract debts to repel invasion, suppress insurrection, defend the State in war, or to redeem the present outstanding indebtedness of the State: but the money, arising from the contracting of such debts, shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever; and all debts, incurred to redeem the present outstanding indebtedness of the State, shall be so contracted as to be payable by the sinking fund, hereinafter provided for, as the same shall accumulate.

SEC. 3. Except the debts above specified in sections one and two of this article, no debt whatever shall hereafter be created by, or on behalf of the State. The State to create no other debt.

SEC. 4. The credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual association or corporation whatever; nor shall the State ever hereafter become a joint owner, or stockholder, in any company or association in this State or elsewhere, formed for any purpose whatever. Credit of State. The State shall not become joint owner or stockholder.

SEC. 5. The State shall never assume the debts of any county, city, town, or township, or of any corporation whatever, unless such debt shall have been created to repel invasion, suppress insurrection, or defend the State in war. No assumption of debts by the State.

SEC. 6. The General Assembly shall never authorize any county, city, town, or township, by vote of its citizens, or otherwise, to become a stockholder in any joint stock company, corporation, or association whatever; or to raise money for, or loan its credit to, or in aid of, any such company, corporation, or association. Counties, cities, towns, or townships, not authorized to become stockholders, &c.

SEC. 7. The faith of the State being pledged for the payment of its public debt, in order to provide therefor, there shall be created a sinking fund, which shall be sufficient to pay the accruing interest on such debt, and, annually, to reduce the principal thereof, by a sum not less than one hundred thousand dollars, increased yearly, and each and every year, by compounding, at the rate of six per cent. per annum. The said sinking fund shall consist, of the net annual income of the public works and stocks owned by the State, of any other funds or resources that are, or may be, provided by law, and of such further sum, to be raised by taxation, as may be required for the purposes aforesaid. Sinking fund.

SEC. 8. The Auditor of State, Secretary of State, and Attorney General, are hereby created a board of commissioners, to be styled, "The Commissioners of the Sinking Fund." The Commissioners of the Sinking fund.

SEC. 9. The commissioners of the sinking fund shall, immediately preceding each regular session of the General Assembly, make an estimate of the probable amount of the fund, provided for in the seventh section of this article, from all sources except from taxation, and report the same, together with all their proceedings relative to said fund and the public Their biennial report.

debt, to the Governor, who shall transmit the same with his regular message, to the General Assembly; and the General Assembly shall make all necessary provision for raising and disbursing said sinking fund, in pursuance of the provisions of this article.

Application of sinking fund.

SEC. 10. It shall be the duty of the said Commissioners faithfully to apply said fund, together with all moneys that may be, by the General Assembly, appropriated to that object, to the payment of the interest, as it becomes due, and the redemption of the principal of the public debt of the State, excepting only, the school and trust funds held by the State.

Semi-annual report.

SEC. 11. The said Commissioners shall, semi-annually, make a full and detailed report of their proceedings to the Governor, who shall, immediately, cause the same to be published, and shall also communicate the same to the General Assembly, forthwith, if it be in session, and if not, then at its first session after such report shall be made.

Board of Public Works.

SEC. 12. So long as this State shall have public works which require superintendence, there shall be a Board of Public Works, to consist of three members, who shall be elected by the people, at the first general election after the adoption of this Constitution, one for the term of one year, one for the term of two years, and one for the term of three years; and one member of said Board shall be elected annually thereafter, who shall hold his office for three years.

Their powers, duties and compensation.

SEC. 13. The powers and duties of said Board of Public Works, and its several members, and their compensation, shall be such as now are, or may be prescribed by law.

ARTICLE IX.

MILITIA.

Who shall perform military duty.

SEC. 1. All white male citizens, residents of this State, being eighteen years of age, and under the age of forty-five years, shall be enrolled in the militia, and perform military duty, in such manner, not incompatible with the Constitution and laws of the United States, as may be prescribed by law.

What officers to be elected, and by whom.

SEC. 2. Majors General, Brigadiers General, Colonels, Lieutenant Colonels, Majors, Captains, and Subalterns, shall

be elected by the persons subject to military duty, in their respective districts.

Same subject.

SEC. 3. The Governor shall appoint the Adjutant General, Quarter Master General, and such other staff officers, as may be provided for by law. Majors General, Brigadiers General, Colonels, or Commandants of Regiments, Battalions, or Squadrons, shall, severally, appoint their staff, and Captains shall appoint their non-commissioned officers and musicians.

Governor to commission officers, and have power to call forth the militia.

SEC. 4. The Governor shall commission all officers of the line and staff, ranking as such; and shall have power to call forth the Militia, to execute the laws of the State, to suppress insurrection, and repel invasion.

Public arms

SEC. 5. The General Assembly shall provide, by law, for the protection and safe keeping of the public arms.

ARTICLE X.

COUNTY AND TOWNSHIP ORGANIZATIONS.

County and township officers.

SEC. 1. The General Assembly shall provide, by law, for the election of such county and township officers as may be necessary.

County officers, when elected.

SEC. 2. County officers shall be elected on the second Tuesday of October, until otherwise directed by law, by the qualified electors of each county, in such manner, and for such term, not exceeding three years, as may be provided by law.

Eligibility of sheriff and treasurer.

SEC. 3. No person shall be eligible to the office of Sheriff, or County Treasurer, for more than four years, in any period of six years.

Township officers, when elected.

SEC. 4. Township officers shall be elected on the first Monday of April, annually, by the qualified electors of their respective townships, and shall hold their offices for one year, from the Monday next succeeding their election, and until their successors are qualified.

County and township treasuries.

SEC. 5. No money shall be drawn from any county or township treasury, except by authority of law.

What officers may be removed.

SEC. 6. Justices of the peace, and county and township officers, may be removed, in such manner and for such cause, as shall be prescribed by law.

Local taxation.

SEC. 7. The Commissioners of Counties, the Trustees of

Townships, and similar boards, shall have such power of local taxation, for police purposes, as may be prescribed by law.

ARTICLE XI.

APPORTIONMENT.

Apportionment for members of the General Assembly.

SEC. 1. The apportionment of this State for members of the General Assembly, shall be made every ten years, after the year one thousand eight hundred and fifty-one, in the following manner: The whole population of the State, as ascertained by the federal census, or in such other mode as the General Assembly may direct, shall be divided by the number "One Hundred," and the quotient shall be the ratio of representation in the House of Representatives, for ten years next succeeding such apportionment.

Ratio of representation in House.

Same subject.

SEC. 2. Every county, having a population equal to one half of said ratio, shall be entitled to one Representative; every county, containing said ratio, and three-fourths over, shall be entitled to two Representatives; every county, containing three times said ratio, shall be entitled to three Representatives: and so on, requiring after the first two, an entire ratio for each additional Representative.

Same subject.

SEC. 3. When any county shall have a fraction above the ratio, so large, that being multiplied by five, the result will be equal to one or more ratios, additional Representatives shall be apportioned for such ratios, among the several sessions of the decennial period, in the following manner: If there be only one ratio, a Representative shall be allotted to the fifth session of the decennial period; if there are two ratios, a Representative shall be allotted to the fourth and third sessions, respectively; if three, to the third, second, and first sessions, respectively; if four to the fourth, third, second, and first sessions, respectively.

Same subject.

SEC. 4. Any county, forming with another county or counties, a Representative district, during one decennial period, if it have acquired sufficient population at the next decennial period, shall be entitled to a separate representation, if there shall be left, in the district from which it shall have been separated, a population sufficient for a Representative; but no

such change shall be made, except at the regular decennial period for the apportionment of Representatives.

Same subject.

SEC. 5. If, in fixing any subsequent ratio, a county, previously entitled to a separate repesentation, shall have less than the number required by the new ratio for a Representative, such county shall be attached to the county adjoining it, having the least number of inhabitants; and the representation of the district, so formed, shall be determined as herein provided.

Ratio for a Senator.

SEC. 6. The ratio for a Senator shall, forever hereafter, be ascertained, by dividing the whole population of the State, by the number thirty-five.

Senatorial districts.

SEC. 7. The State is hereby divided into thirty-three Senatorial districts, as follows: The county of Hamilton shall constitute the first Senatorial district; the counties of Butler and Warren, the second; Montgomery and Preble, the third; Clermont and Brown, the fourth; Greene, Clinton and Fayette, the fifth; Ross and Highland, the sixth; Adams, Pike, Scioto and Jackson, the seventh; Lawrence, Gallia, Meigs and Vinton, the eighth; Athens, Hocking and Fairfield, the ninth; Franklin and Pickaway, the tenth; Clark, Champaign and Madison, the eleventh; Miami, Darke and Shelby, the twelfth; Logan, Union, Marion and Hardin, the thirteenth; Washington and Morgan, the fourteenth; Muskingum and Perry, the fifteenth; Delaware and Licking, the sixteenth; Knox and Morrow, the seventeenth; Coshocton and Tuscarawas, the eighteenth; Guernsey and Monroe, the nineteenth; Belmont and Harrison, the twentieth; Carroll and Stark, the twenty-first; Jefferson and Columbiana, the twenty-second; Trumbull and Mahoning, the twenty-third; Ashtabula, Lake and Geauga, the twenty-fourth; Cuyahoga, the twenty-fifth; Portage and Summit, the twenty-sixth; Medina and Lorain, the twenty-seventh; Wayne and Holmes, the twenty-eighth; Ashland and Richland, the twenty-ninth; Huron, Erie, Sandusky and Ottawa, the thirtieth; Seneca, Crawford and Wyandot, the thirty-first; Mercer, Auglaize, Allen, Vanwert, Paulding, Defiance and Williams, the thirty-second; and Hancock, Wood, Lucas, Fulton, Henry and Putnam, the thirty-third. For the first decennial period, after the adoption of this constitution, each of said districts shall be

entitled to one Senator, except the first district, which shall be entitled to three Senators.

Same subject.

SEC. 8. The same rules shall be applied, in apportioning the fractions of Senatorial districts, and in annexing districts, which may hereafter have less than three-fourths of a Senatorial ratio, as are applied to Representative districts.

Same subject.

SEC. 9. Any county forming part of a Senatorial district, having acquired a population equal to a full senatorial ratio, shall be made a separate Senatorial district, at any regular decennial apportionment, if a full Senatorial ratio shall be left in the district from which it shall be taken.

Apportionment of Representatives for ten years.

SEC. 10. For the first ten years, after the year one thousand eight hundred and fifty-one, the apportionment of Representatives shall be as provided in the schedule, and no change shall ever be made in the principles of representation, as herein established, or, in the Senatorial districts, except as above provided. All territory, belonging to a county at the time of any apportionment, shall, as to the right of representation and suffrage, remain an integral part thereof, during the decennial period.

When the Governor, Auditor, and Secretary of State to determine ratio of representation.

SEC. 11. The Governor, Auditor, and Secretary of State, or any two of them, shall, at least six months prior to the October election, in the year one thousand eight hundred and sixty-one, and, at each decennial period thereafter, ascertain and determine the ratio of representation, according to the decennial census, the number of Representatives and Senators each county or district shall be entitled to elect, and for what years, within the next ensuing ten years, and the Governor shall cause the same to be published, in such manner as shall be directed by law.

JUDICIAL APPORTIONMENT.

Judicial purposes.

SEC. 12. For Judicial purposes, the State shall be apportioned as follows:

1st district.

The county of Hamilton, shall constitute the first district, which shall not be subdivided; and the Judges therein, may hold separate courts, or separate sittings of the same court, at the same time.

The counties of Butler, Preble and Darke, shall constitute the first subdivision, Montgomery, Miami and Champaign, the second, and Warren, Clinton, Greene and Clark, the third subdivision, of the second district; and, together, shall form such district. 2d district.

The counties of Shelby, Auglaize, Allen, Hardin, Logan, Union and Marion shall constitute the first subdivision, Mercer, Van Wert, Putnam, Paulding, Defiance, Williams, Henry and Fulton, the second, and Wood, Seneca, Hancock, Wyandot and Crawford, the third subdivision, of the third district; and, together, shall form such district. 3d district.

The counties of Lucas, Ottawa, Sandusky, Erie and Huron, shall constitute the first subdivision, Lorain, Medina and Summit the second, and the county of Cuyahoga, the third subdivision, of the fourth district; and, together, shall form such district. 4th district.

The counties of Clermont, Brown and Adams, shall constitute the first subdivision, Highland, Ross and Fayette, the second, and Pickaway, Franklin and Madison, the third subdivision, of the fifth district; and, together, shall form such district. 5th district.

The counties of Licking, Knox and Delaware, shall constitute the first subdivision, Morrow, Richland and Ashland, the second, and Wayne, Holmes and Coshocton, the third subdivision, of the sixth district; and, together, shall form such district. 6th district.

The counties of Fairfield, Perry and Hocking, shall constitute the first subdivision, Jackson, Vinton, Pike, Scioto and Lawrence, the second, and Gallia, Meigs, Athens and Washington, the third subdivision, of the seventh district; and, together, shall form such district. 7th district.

The counties of Muskingum and Morgan, shall constitute the first subdivision, Guernsey, Belmont and Monroe, the second, and Jefferson, Harrison and Tuscarawas, the third subdivision, of the eighth district; and, together, shall form such district. 8th district.

The counties of Stark, Carroll and Columbiana, shall constitute the first subdivision, Trumbull, Portage and Mahoning, the second, and Geauga, Lake and Ashtabula, the third subdivision, of the ninth district; and, together, shall form such district. 9th district.

New counties attached.

SEC. 13. The General Assembly shall attach any new counties, that may hereafter be erected, to such districts, or subdivisions thereof, as shall be most convenient.

ARTICLE XII.

FINANCE AND TAXATION.

Poll tax.

SEC. 1. The levying of taxes, by the poll, is grievous and oppressive; therefore, the General Assembly shall never levy a poll tax, for county or State purposes.

Taxation by uniform rule.

SEC. 2. Laws shall be passed, taxing, by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also all real and personal property, according to its true value in money; but burying grounds, public school houses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose; and personal property, to an amount not exceeding in value two hundred dollars, for each individual, may, by general laws, be exempted from taxation: but, all such laws shall be subject to alteration or repeal; and the value of all property, so exempted, shall, from time to time, be ascertained and published, as may be directed by law.

Same subject.

SEC. 3. The General Assembly shall provide, by law, for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects, or dues, of every description, (without deduction,) of all Banks, now existing, or hereafter created, and of all bankers, so that all property employed in banking, shall always bear a burden of taxation, equal to that imposed on the property of individuals.

Revenue.

SEC. 4. The General Assembly shall provide for raising revenue, sufficient to defray the expenses of the State, for each year, and also a sufficient sum to pay the interest on the State debt.

Levying of taxes.

SEC. 5. No tax shall be levied, except in pursuance of law; and every law imposing a tax, shall state, distinctly, the object of the same, to which only, it shall be applied.

No debt for internal improvement.

SEC. 6. The State shall never contract any debt for purposes of internal improvement.

ARTICLE XIII.

CORPORATIONS.

Corporate powers.

SEC. 1. The General Assembly shall pass no special act conferring corporate powers.

Corporations, how formed.

SEC. 2. Corporations may be formed under general laws; but all such laws may, from time to time, be altered, or repealed.

Dues from corporations, how secured.

SEC. 3. Dues from corporations shall be secured, by such individual liability of the stockholders, and other means, as may be prescribed by law; but, in all cases, each stockholder shall be liable, over and above the stock by him or her owned, and any amount unpaid thereon, to a further sum, at least equal in amount to such stock.

Corporate property subject to taxation.

SEC. 4. The property of corporations, now existing or hereafter created, shall forever be subject to taxation, the same as the property of individuals.

Right of way.

SEC. 5. No right of way shall be appropriated to the use of any corporation, until full compensation therefor be first made in money, or first secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation: which compensation shall be ascertained by a jury of twelve men, in a court of record, as shall be prescribed by law.

Organization of cities, &c.

SEC. 6. The General Assembly shall provide for the organization of cities, and incorporated villages, by general laws; and restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent the abuse of such power.

Associations with banking powers.

SEC. 7. No act of the General Assembly, authorizing associations with banking powers, shall take effect, until it shall be submitted to the people, at the general election next succeeding the passage thereof, and be approved by a majority of all the electors, voting at such election.

ARTICLE XIV.

JURISPRUDENCE.

Commissioners.

SEC. 1. The General Assembly, at its first session after the adoption of this Constitution, shall provide for the appointment

of three Commissioners, and prescribe their tenure of office, compensation, and the mode of filling vacancies in said commission.

Their duties. SEC. 2. The said commissioners shall revise, reform, simplify and abridge, the practice, pleadings, forms, and proceedings of the Courts of record of this State; and, as far as practicable and expedient, shall provide for the abolition of the distinct forms of action at law, now in use, and for the administration of justice by a uniform mode of proceeding, without reference to any distinction between law and equity.

Their report. SEC. 3. The proceedings of the Commissioners shall, from time to time, be reported to the General Assembly, and be subject to the action of that body.

ARTICLE XV.

MISCELLANEOUS.

Seat of government. SEC. 1. Columbus shall be the seat of government, until otherwise directed by law.

Public printing. SEC. 2. The printing of the laws, journals, bills, legislative documents and papers for each branch of the General Assembly, with the printing required for the Executive and other departments of State, shall be let, on contract, to the lowest responsible bidder, by such Executive officers, and in such manner, as shall be prescribed by law.

Receipts and expenditures. SEC. 3. An accurate and detailed statement of the receipts and expenditures of the public money, the several amounts paid, to whom, and on what account, shall, from time to time, be published, as shall be prescribed by law.

Who eligible to office. SEC. 4. No person shall be elected or appointed to any office in this State, unless he possess the qualifications of an elector.

Duelits ineligible. SEC. 5. No person who shall hereafter fight a duel, assist in the same as second, or send, accept, or knowingly carry, a challenge therefor, shall hold any office in this State.

Lotteries. SEC. 6. Lotteries, and the sale of lottery tickets, for any purpose whatever, shall forever be prohibited in this State.

Oath of officers. SEC. 7. Every person chosen or appointed to any office under this State, before entering upon the discharge of its

duties, shall take an oath or affirmation, to support the Constitution of the United States, and of this State, and also an oath of office.

Bureau of statistics.

SEC. 8. There may be established, in the Secretary of State's Office, a bureau of statistics, under such regulations as may be prescribed by law.

ARTICLE XIV.

AMENDMENTS.

This constitution may be amended, and how.

SEC. 1. Either branch of the General Assembly may propose amendments to this constitution; and, if the same shall be agreed to, by three fifths of the members elected to each House, such proposed amendments shall be entered on the journals, with the yeas and nays, and shall be published in at least one newspaper in each county of the State, where a newspaper is published, for six months preceding the next election for Senators and Representatives, at which time the same shall be submitted to the electors, for their approval or rejection; and if a majority of the electors, voting at such election, shall adopt such amendments, the same shall become a part of the Constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted, as to enable the electors to vote on each amendment, separately.

Same subject.

SEC. 2. Whenever two-thirds of the members elected to each branch of the General Assembly, shall think it necessary to call a Convention, to revise, amend, or change this Constitution, they shall recommend to the electors to vote, at the next election for members to the General Assembly, for or against a Convention; and if a majority of all the electors, voting at said election, shall have voted for a Convention, the General Assembly shall, at their next session, provide, by law, for calling the same. The Convention shall consist of as many members as the House of Representatives, who shall be chosen in the same manner, and shall meet within three months after their election, for the purpose aforesaid.

Same subject.

SEC. 3. At the general election, to be held in the year one thousand eight hundred and seventy-one, and in each twentieth year thereafter, the question: "Shall there be a Convention to

revise, alter, or amend the Constitution," shall be submitted to the electors of the State; and, in case a majority of all the electors, voting at such election, shall decide in favor of a Convention, the General Assembly, at its next session, shall provide, by law, for the election of delegates, and the assembling of such Convention, as is provided in the preceding section; but no amendment of this Constitution, agreed upon by any Convention assembled in pursuance of this article, shall take effect, until the same shall have been submitted to to the electors of the State, and adopted by a majority of those voting thereon.

SCHEDULE.

Of prior laws.

SEC. 1. All laws of this State, in force on the first day of September, one thousand eight hundred and fifty-one, not inconsistent with this constitution, shall continue in force, until amended or repealed.

The first election for members of General Assembly.

SEC. 2. The first election for Members of the General Assembly, under this constitution, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one.

For state officers.

SEC. 3. The first election for Governor, Lieutenant Governor, Auditor, Treasurer, and Secretary of State and Attorney General, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one. The persons, holding said offices on the first day of September, one thousand eight hundred and fifty-one, shall continue therein, until the second Monday of January, one thousand eight hundred and fifty-two.

For Judges, Clerks, &c.

SEC. 4. The first election for Judges of the supreme court, courts of common pleas, and probate courts, and Clerks of the courts of common pleas, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one, and the official term of said Judges and clerks, so elected, shall commence on the second Monday of February, one thousand eight hundred and fifty-two. Judges and clerks of the courts of common pleas and supreme court, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office with their present powers and duties, until the second Monday of February, one thousand eight hundred and fifty-two. No suit or proceeding, pending in any of the

courts of this State, shall be affected by the adoption of this constitution.

What officers to continue in office until the expiration of their term.

SEC. 5. The Register and Receiver of the land office, Directors of the Penitentiary, Directors of the Benevolent Institutions of the State, the State Librarian, and all other officers, not otherwise provided for in this constitution, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office, until their terms expire, respectively, unless the General Assembly shall otherwise provide.

As to certain courts.

SEC. 6. The Superior and Commercial Courts of Cincinnati, and the Superior Court of Cleveland, shall remain, until otherwise provided by law, with their present powers and jurisdiction; and the Judges and Clerks of said courts, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office, until the expiration of their terms of office, respectively, or, until otherwise provided by law; but neither of said courts shall continue after the second Monday of February, one thousand eight hundred and fifty three; and no suit shall be commenced in said two first mentioned courts, after the second Monday of February, one thousand eight hundred and fifty-two, nor in said last mentioned court, after the second Monday in August, one thousand eight hundred and fifty-two; and all business in either of said courts, not disposed of within the time limited for their continuance as aforesaid, shall be transferred to the court of common pleas.

County and township officers.

SEC. 7. All County and Township officers and Justices of the peace, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office until their terms expire, respectively.

Vacancies.

SEC. 8. Vacancies in office, occurring after the first day of September, one thousand eight hundred and fifty one, shall be filled, as is now prescribed by law, and until officers are elected or appointed, and qualified, under this constitution.

When constitution shall take effect.

SEC. 9. This Constitution shall take effect, on the first day of September, one thousand eight hundred and fifty one.

Term of office.

SEC. 10. All officers shall continue in office, until their successors shall be chosen and qualified.

Transfer of suits.

SEC. 11. Suits pending in the Supreme Court in Bank, shall be transferred to the Supreme Court provided for in this constitution, and be proceeded in according to law.

Same subject.

SEC. 12. The district courts shall, in their respective counties, be the successors of the present Supreme Court; and all suits, prosecutions, judgments, records and proceedings, pending and remaining in said Supreme Court, in the several counties of any district, shall be transferred to the respective district courts of such counties, and be proceeded in, as though no change had been made in said Supreme Court.

Same subject.

SEC. 13. The said courts of common pleas, shall be the successors of the present courts of common pleas in the several counties, except as to probate jurisdiction; and all suits, prosecutions, proceedings, records and judgments, pending or being in said last mentioned courts, except as aforesaid, shall be transferred to the courts of common pleas created by this constitution, and proceeded in, as though the same had been therein instituted.

Same subject.

SEC. 14. The Probate courts provided for in this constitution, as to all matters within the jurisdiction conferred upon said courts, shall be the successors, in the several counties, of the present courts of common pleas; and the records, files and papers, business and proceedings, appertaining to said jurisdiction, shall be transferred to said courts of probate, and be there proceeded in, according to law.

Judges and Clerks, how elected, &c.

SEC. 15. Until otherwise provided by law, elections for Judges and Clerks shall be held, and the poll books returned, as is provided for Governor, and the abstract therefrom, certified to the Secretary of State, shall be by him opened, in the presence of the Governor, who shall declare the result, and issue commissions to the persons elected.

Election returns, where sent.

SEC. 16. Where two or more counties are joined in a Senatorial, Representative, or Judicial district, the returns of elections shall be sent to the county, having the largest population.

Constitution submitted to the electors of the State, &c.

SEC. 17. The foregoing constitution shall be submitted to the electors of the State, at an election to be held on the third Tuesday of June, one thousand eight hundred and fifty-one, in the several election districts of this State. The ballots at such election shall be written or printed as follows: Those in favor of the constitution, "New Constitution, Yes;" those against the constitution, "New Constitution, No." The polls at said election shall be opened between the hours of eight and ten o'clock

A. M., and closed at six o'clock P. M.; and the said election shall be conducted, and the returns thereof made and certified, to the Secretary of State, as provided by law for annual elections of State and County officers. Within twenty days after such election, the Secretary of State shall open the returns thereof, in the presence of the Governor; and, if it shall appear that a majority of all the votes, cast at such election, are in favor of the constitution, the Governor shall issue his proclamation, stating that fact, and said constitution shall be the constitution of the State of Ohio, and not otherwise.

License to traffic in intoxicating liquor.

SEC. 18. At the time when the votes of the electors shall be taken for the adoption or rejection of this constitution, the additional section, in the words following, to wit: "No license to traffic in intoxicating liquors shall hereafter be granted in this State; but the General Assembly may, by law, provide against evils resulting therefrom," shall be separately submitted to the electors for adoption or rejection, in form following, to wit: A separate ballot may be given by every elector and deposited in a separate box. Upon the ballots given for said separate amendment shall be written or printed, or partly written and partly printed, the words: "License to sell intoxicating liquors, Yes;" and upon the ballots given against said amendment, in like manner, the words: "License to sell intoxicating liquors, No." If, at the said election, a majority of all the votes given for and against said amendment, shall contain the words: "License to sell intoxicating liquors, No," then the said amendment shall be a separate section of article fifteen of the constitution.

Apportionment for House of Representatives.

SEC. 19. The apportionment for the House of Representatives, during the first decennial period under this constitution, shall be as follows:

The counties of Adams, Allen, Athens, Auglaize, Carroll, Champaign, Clark, Clinton, Crawford, Darke, Delaware, Erie, Fayette, Gallia, Geauga, Greene, Hancock, Harrison, Hocking, Holmes, Lake, Lawrence, Logan, Madison, Marion, Meigs, Morrow, Perry, Pickaway, Pike, Preble, Sandusky, Scioto, Shelby and Union, shall, severally, be entitled to one Representative, in each session of the decennial period.

The counties of Franklin, Licking, Montgomery and Stark, shall each be entitled to two Representatives, in each session of the decennial period.

The counties of Ashland, Coshocton, Highland, Huron, Lorain, Mahoning, Medina, Miami, Portage, Seneca, Summit and Warren, shall, severally, be entitled to one Representative, in each session; and one additional Represesentative, in the fifth session of the decennial period.

The counties of Ashtabula, Brown, Butler, Clermont, Fairfield, Guernsey, Jefferson, Knox, Monroe, Morgan, Richland, Trumbull, Tuscarawas and Washington, shall, severally, be entitled to one Representative, in each session; and two additional Representatives, one in the third, and one in the fourth session, of the decennial period.

The counties of Belmont, Columbiana, Ross and Wayne, shall, severally, be entitled to one Representative, in each session; and three additional Representatives, one in the first, one in the second, and one in the third session, of the decennial period.

The county of Muskingum shall be entitled to two Representatives, in each session; and one additional Representative, in the fifth session of the decennial period.

The county of Cuyahoga shall be entitled to two Representatives, in each session; and two additional Representatives, one in the third, and one in the fourth session, of the decennial period.

The county of Hamilton shall be entitled to seven Representatives, in each session; and four additional Representatives, one in the first, one in the second, one in the third, and one in the fourth session, of the decennial period.

The following counties, until they shall have acquired a sufficient population to entitle them to elect, separately, under the fourth section of the eleventh article, shall form districts in manner following, to wit: The counties of Jackson and Vinton, one district; the counties of Lucas and Fulton, one district; the counties of Wyandot and Hardin, one district; the counties of Mercer and Van Wert, one district; the counties of Paulding, Defiance and Williams, one district; the counties of Putnam and Henry, one district; the counties of Wood and Ottawa, one district: each of which districts shall be entitled to one Representative, in every session of the decennial period.

Done in Convention, at Cincinnati, the tenth day of March, in the year of our Lord, one thousand eight hundred and fifty-

one, and of the independence of the United States, the seventy-fifth.

WILLIAM MEDILL, *President.*

Attest: Wm. H. Gill, *Secretary.*

S. J. Andrews,
William Barbee,
Joseph Barnett,
David Barnet,
Wm. S. Bates,
A. I. Bennett,
John H. Blair,
Jacob Blickensderfer,
Van Brown,
R. W. Cahill,
L. Case,
David Chambers,
John Chany,
H. D. Clark,
George Collins,
Friend Cook,
Otway Curry,
G. Volney Dorsey,
Thos. W. Ewart,
John Ewing,
Joseph M. Farr,
Elias Florence,
Robert Forbes,
H. N. Gillett,
John Graham,
Jacob J. Greene,
John L. Green,
Henry H. Gregg,
W. S. Groesbeck,
C. S. Hamilton,
D. D. T. Hard,
A. Harlan,
William Hawkins,
James P. Henderson,
Peter Hitchcock,
J. McCormick,
G. W. Holmes,
Geo. B. Holt,
John J. Hootman,
V. B. Horton,
Samuel Humphreville,
John E. Hunt,
B. B. Hunter,
John Johnson,
J. Dan. Jones,
James B. King,
S. J. Kirkwood,
Thos. J. Larsh,
William Lawrence,
John Larwill,
Robert Leech,
D. P. Leadbetter,
John Lidey,
James Loudon,
H. S. Manon,
Samson Mason,
Matthew H. Mitchell,
Isaiah Morris,
Charles McCloud,
S. F. Norris,
Chas. J. Orton,
W. S. C. Otis,
Thomas Patterson,
Danl. Peck,
Jacob Perkins,
Saml. Quigley,
R. P. Ranney,
Chs. Reemelin,
Adam N. Riddle,
Edward C. Roll,

Wm. Sawyer,
Sabirt Scott,
John Sellers,
John A. Smith,
George J. Smith,
B. P. Smith,
Henry Stanbery,
B. Stanton,
Albert V. Stebbins,
E. T. Stickney,
Harman Stidger,
James Struble,
J. R. Swan,
L. Swift,
James W. Taylor,
Norton S. Townshend,
Elijah Vance,
Wm. M. Warren,
Thomas A. Way,
J. Milton Williams,
Elsey Wilson,
Jas. T. Worthington,
E. B. Woodbury,
H. C. Gray,
Edward Archbold,
Reuben Hitchcock,
F. Case,
Joseph Vance,
Rich'd Stillwell,
Simeon Nash,
Hugh Thompson,
Joseph Thompson.

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The following counties are entitled two representatives for ten years, to wit:		
Franklin, Licking, Montgomery and Stark.		
The following counties are entitled to one representative and one additional one in the fifth session of the decennial period, to wit:		
Ashland, Coshocton, Highland, Huron, Lorain, Mahoning, Medina, Miami, Portage, Seneca, Summit, and Warren.		
The following counties are entitled to one representative each, and one other in the third and fourth session of the decennial period, to wit:		
Ashtabula, Brown, Butler, Clermont, Fairfield, Guernsey, Jefferson, Knox, Monroe, Morgan, Richland, Trumbull, Tuscarawas, and Washington.		
The following counties are entitled to one representative, and one other in the first, one in the second, and one in the third decennial period, to wit:		
Belmont, Columbiana, Ross and Wayne.		
The county of Muskingum shall be entitled to two representatives and one other in the fifth session.		
The county of Cuyahoga shall be entitled to two representatives, and one additional in the third and fourth sessions.		
The county of Hamilton is entitled to seven representatives, and one other in the first, second, third and fourth sessions.		
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Mercer and Van Wert, one district.		
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11 " " Apportionment.		
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Adams	5	1	11	12	1	.	.....	Sched.	19	7	11	7
Allen	3	1	do	do	1	.	.....	do	do	32	do	7
Ashland	6	2	do	do	1	1	5	do	do	29	do	7
Ashtabula	9	3	do	do	1	2	3–4	do	do	24	do	7
Athens	7	3	do	do	1	.	.....	do	do	9	do	7
Auglaize	3	1	do	do	1	.	.....	do	do	32	do	7
Belmont	8	2	do	do	1	3	1–2–3	do	do	20	do	7
Brown	5	1	do	do	1	2	3–4	do	do	4	do	7
Butler	2	1	do	do	1	2	3–4	do	do	2	do	7
Carroll	9	1	do	do	1	.	.....	do	do	21	do	7
Champaign	2	2	do	do	1	.	.....	do	do	11	do	7
Clark	2	3	do	do	1	.	.....	do	do	11	do	7
Clermont	5	1	do	do	1	2	3–4	do	do	4	do	7
Clinton	2	3	do	do	1	.	.....	do	do	5	do	7
Columbiana	9	1	do	do	1	3	1–2–3	do	do	22	do	7
Coshocton	6	3	do	do	1	1	5	do	do	18	do	7
Crawford	3	3	do	do	1	.	.....	do	do	31	do	7
Cuyahoga	4	3	do	do	2	2	3–4	do	do	25	do	7
Darke	2	1	do	do	1	.	.....	do	do	12	do	7
Defiance, with Paulding and Williams	3	2	do	do	1	.	.....	do	do	32	do	7
Delaware	6	1	do	do	1	.	.....	do	do	16	do	7
Erie	4	1	do	do	1	.	.....	do	do	30	do	7
Fairfield	7	1	do	do	1	2	3–4	do	do	9	do	7
Fayette	5	2	do	do	1	.	.....	do	do	5	do	7
Franklin	5	3	do	do	2	.	.....	do	do	10	do	7
Fulton, with Lucas	3	2	do	do	1	.	.....	do	..	33	do	7
Gallia	7	3	do	do	1	.	.....	do	do	8	do	7
Geauga	9	3	do	do	1	.	.....	do	do	24	do	7
Greene	2	3	do	do	1	.	.....	do	do	5	do	7
Guernsey	8	2	do	do	1	2	3–4	do	do	19	do	7
Hamilton, not subdivided	1	.	do	do	7	4	1–2–3–4	do	do	3 Sen.	do	7
Hancock	3	3	do	do	1	.	.....	do	do	33	do	7
Hardin, with Wyandot	3	1	do	do	1	.	.....	do	do	13	do	7
Harrison	8	3	do	do	1	.	.....	do	do	20	do	7
Henry, with Putnam	3	2	do	do	1	.	.....	do	do	33	do	7
Highland	5	2	do	do	1	1	5	do	do	6	do	7
Hocking	7	1	do	do	1	.	.....	do	do	9	do	7
Holmes	6	3	do	do	1	.	.....	do	do	28	do	7
Huron	4	1	do	do	1	1	5	do	do	30	do	7
Jackson, with Vinton	7	2	do	do	1	.	.....	do	do	7	do	7
Jefferson	8	3	do	do	1	2	3–4	do	do	22	do	7
Knox	6	1	do	do	1	2	3–4	do	do	17	do	7
Lake	9	3	do	do	1	.	.....	do	do	24	do	7
Lawrence	7	2	do	do	1	.	.....	do	do	8	do	7
Licking	6	1	do	do	2	.	.....	do	do	16	do	7
Logan	3	1	do	do	1	.	.....	do	do	13	do	7
Lorain	4	2	do	do	1	1	5	do	do	27	do	7
Lucas, with Fulton	4	1	do	do	1	.	.....	do	do	33	do	7
Madison	5	3	do	do	1	.	.....	do	do	11	do	7

DISTRICTING—*Continued*

COUNTIES.	Judicial District.	Subdivision.	Article.	Section.	No. of Representatives.	Additional.	What Sessions.	Article.	Section.	Senatorial District.	Article.	Section.
Mahoning	9	2	11	12	1	1	5	Sched.	19	23	11	7
Marion	3	1	do	do	1	.	.....	do	do	13	do	7
Medina	4	2	do	do	1	1	5	do	do	27	do	7
Meigs	7	3	do	do	1	.	.....	do	do	8	do	7
Mercer, with V. Wert	3	2	do	do	1	.	.....	do	do	32	do	7
Miamia	2	2	do	do	1	1	5	do	do	12	do	7
Monroe	8	2	do	do	1	2	3–4	do	do	19	do	7
Montgomery	2	2	do	do	2	.	.....	do	do	3	do	7
Morgan	8	1	do	do	1	2	3–4	do	do	14	do	7
Morrow	6	2	do	do	1	.	.....	do	do	17	do	7
Muskingum	8	1	do	do	2	1	5	do	do	15	do	7
*Noble	8	1			.	.						
Ottawa, with Wood	4	1	do	do	1	.	.....	do	do	30	do	7
Paulding, with Defiance and Williams	3	2	do	do	1	.	.....	do	do	32	do	7
Perry	7	1	do	do	1	.	.....	do	do	15	do	7
Pickaway	5	3	do	do	1	.	.....	do	do	10	do	7
Pike	7	2	do	do	1	.	.....	do	do	7	do	7
Portage	9	2	do	do	1	1	5	do	do	26	do	7
Preble	2	1	do	do	1	.	.....	do	do	3	do	7
Putnam, with Henry	3	2	do	do	1	.	.....	do	do	33	do	7
Richland	6	2	do	do	1	2	3–4	do	do	29	do	7
Ross	5	2	do	do	1	3	1–2–3	do	do	6	do	7
Sandusky	4	1	do	do	1	.	.....	do	do	30	do	7
Scioto,	7	2	do	do	1	.	.....	do	do	7	do	7
Seneca	3	3	do	do	1	1	5	do	do	31	do	7
Shelby	3	1	do	do	1	.	.....	do	do	12	do	7
Stark	9	1	do	do	2	.	.....	do	do	21	do	7
Summit	4	2	do	do	1	1	5	do	do	26	do	7
Trumbull	9	2	do	do	1	2	3–4	do	do	23	do	7
Tuscarawas	8	3	do	do	1	2	3–4	do	do	18	do	7
Union	3	1	do	do	1	.	.....	do	do	13	do	7
Vanwert, with Mercer	3	2	do	do	1	.	.....	do	do	32	do	7
Vinton, with Jackson	7	2	do	do	1	.	.....	do	do	8	do	7
Warren	2	3	do	do	1	1	5	do	do	2	do	7
Washington	7	3	do	do	1	2	3–4	do	do	14	do	7
Wayne	6	3	do	do	1	3	1–2–3	do	do	28	do	7
Williams, with Paulding and Defiance	3	2	do	do	1	.	.....	do	do	32	do	7
Wood, and others	3	3	do	do	1	.	.....	do	do	33	do	7
Wyandot, with Hardin	3	3	do	do	1	.	.....	do	do	31	do	7

*Erected since the Constitution was framed—attached to eighth district, first subdivision, by law.

	Art.	Sec.
DISTRICTS (see Apportionment)—		
for Senators	11	7
for Representatives, when made	11	1
for Representatives, apportioned	Sch.	19
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to have like jurisdiction with the Supreme Court	4	6
how composed	4	5
to be successors of the Supreme Court	Sch.	12
to be held in each county once a year, except	4	5
the Judges may be authorized to fix the time of holding	4	5
DISTRICTS, JUDICIAL—		
the State divided into nine Common Pleas	4	3
Hamilton county to constitute one	4	3
three or more counties in each of the others	4	3
each divided into three subdivisions	4	3
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DIVORCE—		
Legislature not to grant	2	32
DUEL—		
No person engaged in, shall hold an office	15	5
EDUCATION—		
funds for, not to be diminished	6	1
no religious sect shall have any exclusive right to fund	6	2
ELECTION—		
regulated by law	10	1
contested, regulated by law	2	21
shall be by ballot	5	2
for State officers, held on 2d Tuesday in October	Sch.	2, 3
for county officers, held on 2d Tuesday in October	10	2
for township officers, on 1st Monday in April	10	4
to adopt Constitution	Sch.	17
District, returns sent to the largest county	Sch.	16
ELECTION RETURNS—		
for Judges, how made and certified	Sch.	4
for Clerks	Sch.	4
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	Art.	Sec.
ELECTION RETURNS—		
for Senators, to be sent to the largest county - - - -	Sch.	16
for Representatives " " -	Sch.	16
ELECTIVE FRANCHISE— - -	5	1
ELECTORS—		
who are qualified to be - - -	5	1
who are not to be - - -	5	5, 6
privilege of - - - -	5	3
EMBEZZLEMENT—		
of public funds, disqualifies for office -	2	5
EMOLUMENTS—		
hereditary, never granted - -	1	17
ESTATE—		
not forfeited by crime - - -	1	12
EXECUTIVE DEPARTMENT—		
to consist of Governor, Lieutenant Governor, Secretary, Treasurer, Auditor of State, and Attorney General - -	3	1
to be elected on 2d Tuesday in October -	3	1
to hold their office 2 years, except Auditor	3	2
their salaries - - - -	3	19
election of, how regulated - -	3	3, 4
" " " -	Sch.	3
vacant offices in, how filled - -	3	18
officers of, to report to Governor -	3	20
terms of office of, when they expire -	Sch.	3
" " " " -	3	2
EXECUTIVE POWER—		
vested in the Governor - - -	3	5
FINANCES AND TAXATION (see Taxation)—	12	
the General Assembly shall provide revenue sufficient, &c. - - -	12	4
receipts and expenditures to be published	15	3
FINES—		
excessive, not imposed - - -	1	9
FORMS OF ACTIONS AT LAW—		
to be abolished, if practicable and expedient - - - - -	14	2
GENERAL ASSEMBLY—(see Legislature, Senators, Representatives)—		
shall consist of a Senate and House of Representatives - - -	2	1
elected biennially - - -	2	2
each House shall be judge of the qualifications of its own members - -	2	6
a majority to constitute a quorum -	2	6

GENERAL ASSEMBLY—Continued.	Art.	Sec.
who shall not be members	2	4, 5
each House to choose its own officers, except	2	8
to determine its own rules	2	8
when it may expel a member	2	8
to keep a journal	2	9
yeas and nays taken at the passage of every bill	2	9
any member may protest	2	10
vacancies in either House, how filled	2	11
members of, how privileged	2	12
proceedings of, to be public, except	2	13
neither House to adjourn without consent of the other, except	2	14
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impeachment	2	23, 24
its regular session to commence first Monday in January, biennially	2	25
not to exercise appointing power to office, except	2	27
cannot pass retroactive laws, &c.	2	28
cannot pass laws impairing contract	2	28
to make no extra compensation, &c.	2	29
duties as to new counties	2	30
member, compensation	2	31
no perquisites allowed	2	31
shall grant no divorces	2	32
shall exercise no judicial power, except	2	32
may permit Judges to fix the time of holding courts	4	5
shall never authorize counties, cities, towns, or townships, to vote to raise money for joint stock companies	8	6
duties as to sinking fund	8	9
to provide for safe-keeping of public arms	9	5
to provide for county and township offices	10	1
to cause sufficient revenue to be raised	12	4
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shall pass no special act of incorporation	13	1
shall incorporate cities and towns by general law	13	6
its first session shall provide for the appointment of three commissioners to reform the laws	14	1

	Art.	Sec.
GENERAL ASSEMBLY—Continued.		
election of members - - -	Sch.	2
less than a majority may adjourn from day to day - - - - -	2	6
less than a majority may compel attendance - - - - - -	2	6
GOVERNMENT—		
instituted to protect the people - -	1	2
the people may change - - -	1	2
seat of, at Columbus - - -	15	1
GOVERNOR—		
elected 2d Tuesday in October, biennially	3	1
to be one of the Executive Department -	3	1
office commences 2d Monday of January	3	2
may require information of Executive Department - - - - -	3	6
shall see that the laws be executed -	3	6
shall recommend measures to the General Assembly - - - - -	3	7
may convene the General Assembly -	3	8
may adjourn the General Assembly, when	3	9
shall be commander-in-chief of the military and naval forces, except - -	3	10
may pardon, reprieve, or commute, when, &c. - - - - - -	3	11
shall inform the General Assembly of pardons - - - - - -	3	11
shall keep the seal of the State - -	3	12
shall sign commissions - - -	3	13
not to hold other offices, except - -	3	14
shall transmit reports and message to General Assembly - - - -	3	20
vacancy in office to be filled by Lieutenant Governor, until, &c. - - -	3	15–17
shall fill certain offices - - -	3	18
shall nominate trustees for institutions, and fill vacancies in same - - -	7	2, 3
duties as to sinking fund - - -	8	9–11
shall appoint his staff - - -	9	3
shall commission militia officers - -	9	4
shall have power to call out the militia, when - - - - - -	9	4
shall, with the Auditor and Secretary of State, prior to the election, every ten years, determine the ratio of representation - - - - - -	11	11
shall issue commissions for Judges and Clerks - - - -	Sch.	15

	Art.	Sec.
GOVERNOR—Continued.		
shall issue proclamation, stating that the Constitution shall be adopted - -	Sch.	17
GRANTS—		
signed by the Governor - -	3	13
signed and sealed by Secretary of State -	3	13
HABEAS CORPUS—		
writ of, not suspended, unless, &c. -	1	8
HAMILTON COUNTY—		
shall constitute the first judicial district -	11	12
may have separate courts at the same time - - - - - -	11	12
entitled to three Senators - -	11	7
seven Representatives -	Sch.	19
and one additional one for four sessions - - -	Sch.	19
HEREDITARY HONORS—		
never granted - - - -	1	17
HOUSE OF REPRESENTATIVES—		
how organized - - - -	2	7
IDIOTS—		
shall not be electors - - -	5	6
IMMUNITIES—		
if granted, may be repealed - -	1	2
" " " - -	13	2
IMPEACHED—		
officers may be - - - -	2	24
IMPEACHMENT—		
the House of Representatives has the sole power of - - - - -	2	23
to be tried by the Senate - - -	2	23
two-thirds to concur - - -	2	23
what officers subject to - - -	2	24
penalty of - - - -	2	24
IMPRISONMENT—		
for debt, not allowed, unless in cases of fraud - - - - - -	1	15
IMPROVEMENT—		
public, the State not to contract debt for	12	6
INDICTMENTS—		
how they shall conclude - -	4	20
officers liable to - - - -	2	24
INTERNAL IMPROVEMENTS—		
the State shall not create a debt for -	12	6

	Art.	Sec
INSTITUTIONS—(see Public Institutions.)		
INSTRUCTIONS—		
to Representatives may be given - - -	1	3
JEOPARDY—		
none to be twice in, for the same offence -	1	10
JOURNAL—		
of each House, to be kept - - -	2	9
to be published - -	2	9
yeas and nay to be entered on - - -	2	9
JUDICIAL DISTRICTS—		
how changed - - - - -	4	15
First—shall consist of the county of Hamilton - - - - -	11	12
Second—1st Sub-division—Butler, Preble and Darke.		
2nd Subdivision—Montgomery, Miami and Champaign.		
3d Subdivision—Warren, Clinton, Greene and Clark.		
Third—1st Subdivision—Shelby, Auglaize, Allen, Hardin, Logan, Union, and Marion.		
2d Subdivision—Mercer, Vanwert, Putnam, Paulding, Defiance, Williams, Henry and Fulton.		
3d Subdivision—Wood, Seneca, Hancock, Wyandot and Crawford.		
Fourth—1st Subdivision—Lucas, Ottawa, Sandusky, Erie and Huron.		
2d Subdivision—Lorain, Medina and Summit.		
3d Subdivision—Cuyahoga.		
Fifth—1st Subdivision—Clermont, Brown and Adams.		
2nd Subdivision—Highland, Ross and Fayette.		
3d Subdivision—Pickaway, Franklin and Madison.		
Sixth—1st Subdivision—Licking, Knox and Delaware.		
2d Subdivision—Morrow, Richland and Ashland.		
3d Subdivision—Wayne, Holmes and Coshocton.		
Seventh—1st Subdivision—Fairfield, Perry and Hocking.		

	Art.	Sec.
JUDICIAL DISTRICTS—Continued.	11	12
2d Subdivision—Jackson, Vinton, Pike, Scioto and Lawrence.		
3d Subdivision, Gallia, Meigs, Athens and Washington.		
EIGHTH—1st Subdivision—Muskingum and Morgan.		
2nd Subdivision—Guernsey, Belmont and Monroe.		
3d Subdivision—Jefferson, Harrison and Tuscarawas.		
NINTH—1st Subdivision—Stark, Carroll and Columbiana.		
Second Subdivision — Trumbull, Portage and Mahoning.		
Third Subdivision—Geauga, Lake and Ashtabula.		
election returns sent to largest county	Sch.	16
JUDICIAL POWER—		
not to be exercised by General Assembly, except	2	32
vested in Supreme Court	4	1
vested in district Court	4	1
vested in Courts of Common Pleas	4	1
vested in Probate Court	4	1
vested in Justices of the Peace, and such others as the law may make	4	1
JURISDICTION—		
of Courts of Common Pleas, fixed by law	4	4
JURY TRIAL—		
shall be inviolate	1	5
JUSTICE—		
administered without delay	1	16
JUSTICES OF THE PEACE—		
number and duties	4	9
how removed	10	6
JUDGES—		
office to commence second Monday of February, 1852	Sch.	4
the number—how increased	4	15
office not to be vacated by creating new ones	4	15
removed from office, how	4	17
may exercise jurisdiction at chambers as regulated by law	4	18
elections to be returned the same as for Governor	Sch.	15
shall hold no other office	4	14

	Art.	Sec.
JUDGES—*Continued.*		
shall receive no fees or perquisites, -	4	14
of Supreme Court classed - -	4	11
term of office after first election to be five years - - - - -	4	10
of Common Pleas shall reside in the district	4	12
term of office five years - - -	4	12
vacancy of, how filled - - -	4	13
salary of, - - - - -	4	14
votes for, when void, - - -	4	14
JURISDICTION—		
of Judges at chambers, regulated by law -	4	18
of Common Pleas, regulated by law -	4	4
of District Court like that of Supreme Court - - - - -	4	6
JURISPRUDENCE— - - - -	14	1
commissioners appointed to reform practice	14	2
(See Commissioners.)		
JURY—		
trial by to be inviolate - - -	1	5
KNOWLEDGE—		
essential to good government - -	1	7
LAND OFFICES, &c.—		
Register and receiver of, to continue until	Sch.	5
LAW AND EQUITY—		
distinction between, to be abolished if practicable and expedient - - -	14	2
LAWS—		
not suspended except by General Assembly	1	18
to be passed only by a majority of all the members elect - - - -	2	9
if revised or amended to be fully set out, -	2	16
style of, - - - - - -	2	18
of a general nature to operate through the State - - - - -	2	26
levying a tax, shall state its object, -	12	5
in force on the 1st of September, to continue until, &c. - - - -	Sch.	1
retroactive, not to be passed - -	2	28
to impair contracts, not to be passed -	2	28
LIBEL—		
in criminal cases, the truth may be given in evidence - - - - -	1	11
LIBERTY—		
of speech and press not to be abridged -	1	11

	Art.	Sec.
LIBRARIAN—		
how long in office - - -	Sch.	5
LICENSE—		
to sell liquor, the question submitted to the voters - - - - -	Sch.	18
the General Assembly may provide against the evils from - - - -	Sch.	18
if voted against, to be a section in 15th article - - - - -	Sch.	18
LIEUTENANT GOVERNOR—		
when elected - - - -	3	1
to be one of the Executive Department -	3	1
holds his office two years - -	3	2
office to commence on second Monday of January - - - -	3	2
to fill the office of Governor, when -	3	15
to be President of the Senate - -	3	16
shall only vote when a tie - -	3	16
if office vacant, how filled - -	3	16, 17
LIQUOR—		
license to sell - - - -	Sch.	18
LOTTERIES—		
forever prohibited - - -	15	6
sale of tickets of, prohibited - -	15	6
MAJORITY—		
of all the members elected necessary to pass a law - - - - -	2	9
MEMBERS OF CONGRESS—		
not to be Governor - - -	3	14
MEMBERS OF GENERAL ASSEMBLY—		
of either house may protest - -	2	10
of either house exempt from arrest -	2	12
salaries of, - - - - -	2	31
MILITARY—		
subordinate to civil power, - - -	1	4
MILITIA—		
who enrolled in - - - -	9	1
to perform duty, &c. - - -	9	1
officers of, how elected - - -	9	2
MISCELLANEOUS ITEMS - - -	15	
MONEY—		
not drawn from State Treasury, except by appropriations - - - -	2	22
how appropriated - - -	8	1, 2
not drawn from county or township treasurers, except, &c. - - -	10	5

	Art.	Sec.
MORALITY—		
essential to good government - -	1	7
NAMES—		
of the delegates who signed the Constitution - - - - - -	Sch.	19
NEW COUNTIES—(See Counties.)		
NOMINATIONS—		
to office by the Governor, to be entered on the Journals - - - -	7	2
OATHS—		
not dispensed with - - -	1	7
to be taken by officers - - -	15	7
what to contain - - - -	15	7
OFFENCES—(See Crimes.)		
OFFICE—		
no religious test required for - -	1	7
what disqualifies for - - -	2	4, 5, 19
do - - - - -	5	4
must be an elector, to hold - -	15	4
OFFICERS—		
presiding in each house to sign bills while in session - - - -	2	17
salaries of, not changed when - -	2	20
may be impeached - - -	2	24
how made - - - -	2	27
not to have extra compensation - -	2	29
certain vacant ones, how filled - -	3	18
of militia, how elected - - -	9	2, 3
of militia, to appoint their staff - -	9	3
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of county and township, how removed -	10	6
of county and township, powers of -	10	7
to take an oath - - - - - -	15	7
must be electors - - - -	15	4
sundries of, how long in office - -	Sch.	5, 7
sundries, vacancies in, how filled -	Sch.	8
to continue in office until successors are qualified - - - -	Sch.	10
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what ones not held by Senators or Representatives - - - - -	2	19

	Art.	Sec.
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election and appointment of	2	27
what ones not held by the Governor	3	14
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PENALTY—		
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PEOPLE—		
may change the government	1	2
may assemble to consult	1	3
may assemble to instruct their Representatives	1	3
may petition	1	3
may bear arms	1	4
rights protected	1	14
the political power in	1	2
(See Rights)		
PERQUISITES—		
none allowed to members of the General Assembly	2	31
none allowed to Judges	4	14
POLL TAX—		
not for county or State purposes	12	1
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ratio of, for Senators	11	6
increase of, how apportioned	11	9
how ascertained	11	1
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POWERS—		
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PRESIDENT—		
of the Senate, to open election returns for Executive Department	3	3
and declare the same	3	3
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	Art.	Sec.
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manner prescribed by law	15	2
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PRIVILEGES—		
or immunities, not granted	1	17
of persons	1	14
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PROBATE—		
in each county	4	7
a Court of Record	4	7
open at all times	4	7
jurisdiction of, fixed by law	4	8
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Judge may be his own clerk, when	4	16
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PROBATE JUDGE—		
General Assembly may authorize him to be Clerk for his Court	4	16
PROCESS—		
style of, shall be "The State of Ohio"	4	20
PROPERTY—		
how taxed	12	2
what exempt from taxes	12	2
private, held inviolable	1	19
private, subservient to public use	1	19
when taken for public use, to be paid for	1	19
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any member may	2	10
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PUBLIC ARMS—		
the General Assembly shall provide for safe keeping	2	5
PUBLIC DEBT—		
the State may contract, to supply casual defects	8	1
aggregate amount not to exceed $750,000	8	1

	Art	Sec.
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the money arising from, to be applied to no other purpose than, &c.	8	1
a further debt may be made to repel invasion, &c.	8	2
how funds appropriated	8	2
none authorized to be created, except as stated, Art. 8, Sec. 1, 2	8	3
a sinking fund created to pay	8	7
PUBLIC IMPROVEMENTS—		
the State not to create a debt for	12	6
PUBLIC INSTITUTIONS—		
officers of, to report to Governor	3	20
for insane, blind, and deaf and dumb, to be fostered always	7	1
PUBLIC WORKS—		
(see Board of Public Works)	8	12
the State not to create a debt for	12	6
PUNISHMENT—		
cruel, not to be inflicted	1	9
QUORUM—		
a majority of the members elected to the General Assembly, to constitute	2	6
RECEIVER OF LAND OFFICE—		
continued in office until	Sch.	6
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how long in office	Sch.	6
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essential to good government	1	7
funds for, to be preserved	6	1
all denominations of, to be protected by law	1	7
RELIGIOUS SECTS—		
none to have an exclusive right to school fund	6	2
tests, none required as a qualification for office	1	7
or as a qualification as a witness	1	
RELIGIOUS SOCIETY—		
none preferred	1	
all denominations to be protected in worship	1	
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to be plainly expressed	2	

	Art.	Sec.
REPRIEVES ALLOWED BY THE GOVERNOR—		
when, &c. - - - -	3	11
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population divided by 100, the quotient to be the ratio - - - -	11	1
fractions, how apportioned - -	11	3, 4, 5
the apportionment to remain 10 years -	11	10
how apportioned for - - -	11	1
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exempt from arrest, when - -	2	12
REVENUE—		
to be raised sufficient to defray State expenses and pay interest of State debt -	1	4
RIGHTS INALIENABLE— - -	1	7
not delegated retained by the people, -	1	20
RIGHTS OF PERSONS—		
bill of - - - - -	1	1
to speak, write, &c. - - -	1	11
to papers, possession, &c., protected -	1	14
to worship God - - - -	1	7
accused of crime - - -	1	10
RIGHT OF WAY—		
not appropriated until payment secured -	13	5
a compensation for, ascertained by a jury of twelve men - - - -	13	5
SALARY OF OFFICERS—		
not changed - - - -	2	20
members of Legislature - - -	2	31
executive department, how fixed - -	3	19
not changed while in office - -	3	19
Judges - - - - -	4	14
of Governor - - - -	3	19
Lieutenant Governor - - -	3	16
SCHOOLS—		
funds to be kept sacred - - -	6	1
the General Assembly to provide for -	6	2
SEAL OF THE STATE—		
kept by the Governor - - - -	3	12
its name - - - - -	3	12
SEARCH WARRANTS—		
not to issue except on oath and probable cause, &c. - - - -	1	14
what it must describe - - -	1	14
SEARCHES—		
unreasonable not made - - -	1	14
seizures - - - - - -	1	14

	Art.	Sec.
SECRETARY OF STATE—		
one of the Executive Department	3	1
how elected	3	1
holds his office two years	3	2
his office to commence 2d Monday of January	3	2
office vacant, how filled	3	18
to be one of the Commissioners of the Sinking Fund	8	8
with Governor, to fix representation	11	11
shall open election returns of Judges and Clerk	Sch.	15
for the adoption of Constitution	Sch.	17
SENATE TO ADVISE, &c., TO APPOINTMENTS—	7	2
SENATORS AND REPRESENTATIVES—		
elected biennially	2	2
not to hold certain other offices	2	19
office to commence 1st of January	2	2
must have resided one year in district, except	2	3
who cannot be	2	4, 5
exempt from arrest, when	2	12
Senators, when sitting as a court on an impeachment, to be upon oath	2	23
to impeach, two-thirds to concur	2	23
population to be divided by 35, the quotient to be the ratio of increase of population, how	11	6
SENATORIAL DISTRICT—		
the ratio for, how fixed	11	6
each entitled to one Senator	11	7
Hamilton district entitled to three	11	7
SENATORS OF U. S.—		
to be voted for *viva voce*	2	27
SENATORIAL DISTRICTS OF STATE—	11	7
State divided into 33	11	7
each district one Senator	11	7
Hamilton county entitled to three	11	7
the ratio for, how fixed	11	6

1 Hamilton, 3 Senators.
2 Butler and Warren.
3 Montgomery and Preble.
4 Clermont and Brown.
5 Greene, Clinton and Fayette.
6 Ross and Highland.
7 Adams, Pike, Scioto and Jackson.
8 Lawrence, Gallia, Meigs and Vinton.

	Art.	Sec.
SENATORIAL DISTRICTS—Continued,		
9 Athens, Hocking and Fairfield.		
10 Franklin and Pickaway.		
11 Clark, Champaign and Madison.		
12 Miami, Darke and Shelby.		
13 Logan, Union, Marion and Hardin.		
14 Washington and Morgan.		
15 Muskingum and Perry.		
16 Delaware and Licking.		
17 Knox and Morrow.		
18 Coshocton and Tuscarawas.		
19 Guernsey and Monroe.		
20 Belmont and Harrison.		
21 Carroll and Stark.		
22 Jefferson and Columbiana.		
23 Trumbull and Mahoning.		
24 Ashtabula, Lake and Geauga.		
25 Cuyahoga.		
26 Portage and Summit.		
27 Medina and Lorain.		
28 Wayne and Holmes.		
29 Ashland and Richland.		
30 Huron, Erie, Sandusky and Ottawa.		
31 Seneca, Crawford and Wyandot.		
32 Mercer, Auglaize, Allen, Vanwert, Paulding, Defiance and Williams.		
33 Hancock, Wood, Lucas, Fulton, Henry and Putnam.		
fractions of population, how apportioned for Senators	11	3, 4, 5, 8
increase of population, how apportioned for Senators	11	9
territory to remain ten years	11	10
election returns sent to largest county	Sch.	16
SERVITUDE—		
involuntary not to be, unless, &c.	1	6
SESSION OF THE GENERAL ASSEMBLY—		
to be biennially	2	25
to commence on 1st Monday of January	2	25
SINKING FUND—		
shall be created to pay public debt	8	7
be sufficient to pay interest and redeem principal not less than $100,000 annually	8	7
what to consist of	8	7
Commissioner of	8	8
SHERIFF—		
eligible only 4 years in 6	10	3

	Art.	Sec.
SLAVERY—		
not to be, except - - -	1	6
SOLDIERS—		
not quartered in any house, except -	1	13
SPEAKER OF THE HOUSE OF REPRESENTATIVES—		
to sign bills while in session - -	2	17
SPEECH—		
liberty of, protected - - -	1	11
liberty of, protected to Senators and Representatives - - - -	2	12
STATE—		
shall never assume the debt of county or town, unless, &c. - - -	8	5
faith of, pledged to pay public debt -	8	7
shall not contract debts for internal improvement - - - -	12	6
shall not own stock in corporations	8	4
STATISTICS—		
bureau of, to be established - -	15	8
STOCKHOLDERS IN CORPORATIONS—		
liability of - - - -	13	3
STOCK IN CORPORATIONS—		
how taxed - - - -	13	4
State or County, not own - -	8	4
STYLE OF LAWS— - - -	2	18
SUITS—		
not affected by this Constitution -	Sch.	4
pending in Court in Bank, transferred to Supreme Court - - -	Sch.	11
in Common Pleas to Common Pleas -	Sch.	13
in Supreme Court to District Court -	Sch.	12
in Courts in Cincinnati, when not commenced - - - -	Sch.	6
in Courts in Cleveland, when not commenced - - - -	Sch.	6
in either of said Courts transferred -	Sch.	6
SUPREME COURT— - - -	4	1
shall consist of five Judges - -	4	2
three form a quorum - - -	4	2
jurisdiction of - - - -	4	2
its terms of setting - - -	4	2
the Judges elected by the State at large -	4	2
suits in, transferment to District Courts -	Sch.	12
SUSPENDING LAWS—		
not exercised, except, &c. - -	1	18

	Art.	Sec.
TAXATION—		
by the poll, not for County or State purposes	12	1
two hundred dollars exempt from	12	2
of Banks equal to individual property	12	3
TAXES—		
levied by a uniform rule	12	2
what property subject to	12	2
what property exempt from	12	2
on property according to its true value	12	2
shall only be raised in pursuance of law	12	5
levied on stock in corporations, same as other property	13	4
TOWN OR CITY—		
not divided by new county, (see City)	2	30
TOWNSHIP ORGANIZATION—	10	1
officers elected 1st Monday in April	10	4
Trustees, their power, &c.	10	7
not to vote to raise money for corporation purposes	8	6
not to be stockholders in corporations	8	6
TRANSPORTED—		
no persons to be, for crime	1	12
TREASURER OF COUNTY—		
eligible only four years in six	10	3
TREASURER OF STATE—		
one of the Executive Department	3	1
how and when elected	3	1
hold his office two years	3	2
his office commence on 2d Monday of January	3	2
office, if vacant, how filled	3	18
TRIAL BY JURY—		
inviolate	1	5
TRUSTEES OF INSTITUTIONS—		
how appointed	7	2
VACANCIES IN EITHER BRANCH OF LEGISLATURE—		
to be filled by election	2	11
in office, how filled	2	27
see the title to office	2	27
VOTERS—(See Elective Franchise.)		
residence to qualify	5	1
VOTE—		
for Senators of United States to be taken *viva voce*	2	27

	Art.	Sec.
VOTING—		
who excluded from - - -	5	4, 5
WARRANTS—		
when not to be issued—(see Search Warrant) - - - - -	1	14
WITNESS—		
none incompetent on account of religious belief - - - - -	1	7
WORSHIP—		
all persons may, as conscience dictates -	1	7
none compelled to support - -	1	7
YEAS AND NAYS—		
to be entered on Journal, at the desire of two members - - - -	2	9
to be taken on the passage of any bill, in either House - - - -	2	9
taken, on appointment to office -	7	2

ACTS OF A GENERAL NATURE.

AN ACT

Relating to the organization of Courts of Justice, and their powers and duties.

Supreme Court, where held.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be the duty of the Judges of the Supreme Court of State of Ohio, to meet annually hereafter, in the city of Columbus, on the first Monday of January, to hold a term of the Supreme Court.

Chief Justice.

SEC. 2. The Judge of the Supreme Court having the shortest time to serve, not holding his office by appointment or election to fill a vacancy, shall be the Chief Justice, and as such shall preside at all terms of the Supreme Court; and in case of his absence, the Judge having in like manner the next shortest time to serve, shall preside in his stead.

Quorum.

SEC. 3. If a quorum of said court shall not be in attendance on the first day of the term, the clerk shall enter such fact on record, and the court shall stand adjourned till the succeeding day, and so from day to day for ten days; and if the court shall not be opened within ten days, all matters pending in said court shall stand continued until the next term, and no action or matter shall abate or be discontinued thereby.

Writs.

SEC. 4. The Supreme Court, when in session, shall have power, in addition to the original jurisdiction conferred by section 2, article 4, of the Constitution, on good cause shown, to issue writs of error, certiorari, supersedeas, ne exeat, and all other writs not specially provided for by statute, which may be necessary to enforce the due administration of right and justice throughout the State; and either of the Judges of the Supreme Court in vacation, shall, on good cause shown, have power to grant writs of error, supersedeas, and certiorari, and

also to grant writs of habeas corpus; and the writs of error or certiorari, directed to the Court of Common Pleas, may, in the discretion of the Supreme Court, or Judge allowing the same, be made returnable to the District Court of the proper county, or to the Supreme Court.

Important or difficult questions before District courts.

SEC. 5. When any important or difficult question shall arise in any proceeding pending before the District Court in any county, the Judges of the District Court, or the Judge of the Supreme Court sitting in said District Court, may, on motion of either party, cause the same to be reserved and sent to the Supreme Court for its decision; and all other questions as to which the Judges of the District Court may be equally divided in opinion, shall, on motion of either party, in like manner be reserved and sent to the Supreme Court for determination.

Rules of practice.

SEC. 6. The Supreme Court shall have power to prescribe such rules for the regulation of its practice, the reservation of all questions, and the transmission of cases from the District Court, or Court of Common Pleas, to the Supreme Court, and remanding the same, as may not be inconsistent with the laws of this State.

Arguments, oral or written.

SEC. 7. In all cases pending in the Supreme Court, oral arguments shall be heard when either party shall request it; but the arguments of counsel may be transmitted to the Court, in which case they shall be placed on file with the papers, and read by the Court in the investigation of the cause.

Reporter.

SEC. 8. The Supreme Court shall appoint a Reporter, whose term of office shall continue three years, whose duty it shall be to attend the sessions of said court, and to report, under the direction of the court, its decisions, together with such other decisions as the court may direct him to report, and to cause the same to be published as soon as may be conveniently done; Provided, that no arguments of counsel shall be published with said reports, other than a brief, containing a reference to the points made and authorities cited and relied on by such counsel, unless specially directed by the court. The Reporter shall receive such compensation as may be provided by law; and the judges of said court shall have power to remove said reporter from office at any time, for such cause or causes as they may deem sufficient, to be entered of record in the journals of the court, ten days' notice of such intention to remove being given to said reporter.

Room, papers and crier.

SEC. 9. The records and papers pertaining to the business of the Supreme Court, shall be kept at the seat of government, in a suitable room to be provided for the accommodation of the Court, and not be removed therefrom, unless by the special direction of the Court, and then only so long as the business of the Court may necessarily require; and the Supreme Court shall appoint a crier, whose duty it shall be to attend the sessions of the Court, and take charge of the room provided for the use of the Court.

Records, &c., of late Supreme Court.

SEC. 10. There shall be a special term of the Supreme Court held at Columbus, to commence on the first Monday of March, 1852; and the records and files of the late Supreme Court in Bank, shall be transferred to the present Supreme Court, and be under the control of the latter court, in the same manner that its own records and files may be.

District Courts and Judicial circuits.

SEC. 11. For the purposes of the District Courts, the nine common pleas districts shall be apportioned into five Judicial Circuits, as follows: The second and third common pleas districts, composed of the counties of Butler, Preble, Darke, Montgomery, Miami, Champaign, Warren, Clinton, Greene, Clark, Shelby, Auglaize, Allen, Hardin, Logan, Union, Marion, Mercer, Van Wert, Putnam, Paulding, Defiance, Williams, Henry, Fulton, Wood, Seneca, Hancock, Wyandot and Crawford, shall constitute the first circuit. The fourth and sixth districts, composed of the counties of Lucas, Ottawa, Sandusky, Erie, Huron, Lorain, Medina, Summit, Cuyahoga, Wayne, Ashland, Richland, Morrow, Knox, Delaware, Licking, Coshocton and Holmes, shall constitute the second circuit. The fifth and seventh districts, composed of the counties of Clermont, Brown, Adams, Highland, Ross, Fayette, Pickaway, Franklin, Madison, Fairfield, Perry, Hocking, Jackson, Vinton, Pike, Scioto, Lawrence, Gallia, Meigs, Athens and Washington, shall constitute the third circuit. The eighth and ninth districts, composed of the counties of Muskingum, Morgan, Guernsey, Belmont, Monroe, Jefferson, Harrison, Tuscarawas, Stark, Carroll, Columbiana, Trumbull, Portage, Mahoning, Geauga, Lake and Ashtabula, to which is hereby added the county of Noble, shall constitute the fourth circuit. And the county of Hamilton shall constitute the fifth circuit.

First circuit.

Second.

Third.

Fourth.

Fifth.

Who shall preside.

SEC. 12. At the sessions of the district court, a judge of the supreme court shall preside; but in case no judge of the supreme court shall be present, the judge of the court of common pleas in whose subdivision such court may be, shall preside; Provided, that the judges of the district court in any district, may, at their first session, in their said district, prescribe by a rule of court, entered upon the record, which one of judges shall, in the absence or disability of the judge of said supreme court, preside in any county or counties of said district.

Writs and jurisdiction.

SEC. 13. The district court, in addition to the original jurisdiction conferred upon it by article 4, section 6, of the constitution, shall have power, on good cause shown, to issue writs of error, certiorari, supersedeas, ne exeat, and all other writs not specially provided for by statute, whenever such writs may be necessary for the exercise of its jurisdiction, in the due administration of right and justice throughout the State; and the said district court shall have appellate jurisdiction, under such regulations as may be prescribed by law, from the court of common pleas, in all civil cases, in which the court of common pleas has original jurisdiction.

Seals.

SEC. 14. The secretary of state shall procure, at the expense of the state, for each of the several counties, a seal for the district court, to be surrounded by these words, "The district court of the state of Ohio;" and also one seal for the supreme court, surrounded with these words, "The supreme court of the state of Ohio." And the seals of the court of common pleas, under the former constitution, shall be the seals of the courts of common pleas under the present constitution, in the proper counties respectively.

Jurisdiction of Common Pleas Courts.

SEC. 15. The court of common pleas shall have original jurisdiction in all civil cases, in law and equity, where the sum or matter in dispute exceeds the jurisdiction of justices of the peace, and appellate jurisdiction from the decisions of county commissioners, justices of the peace, and other inferior courts, in the proper county, in all civil cases, subject to the regulations provided by law. It shall have original jurisdiction of all crimes and offences, except in cases of minor offences, the exclusive jurisdiction of which is possessed by justices of the peace, or that may be vested in courts inferior to the common pleas, and shall have the same power to issue remedial and other process, writs of error, quo warranto and mandamus excepted, as the district court has; and any of the judges of the courts of common pleas within their respective districts, shall, on good cause shown, have power to allow writs of certiorari, directed to justices of the peace, probate courts, or county commissioners, to cause their proceedings to be brought before the court of common pleas of the county in which such proceedings may have been commenced, in order that right and justice may be done.

When judge interested in a cause.

SEC. 16. Whenever a judge of the court of common pleas shall be interested in the event of any cause or matter pending before said court, in any county of his district, it shall be the duty of the other judges of the district, or one of them, to attend, and hold the court wherein such cause or matter is pending, for the trial of the same; and if all three of the common pleas judges shall be interested in the event of any cause or matter pending in their district, the same shall be removed for trial into the nearest county in an adjacent district, under the order of the court wherein the same was instituted.

Same subject.

SEC. 17. If in any cause or matter pending in the district court, any two or more of the judges holding said court, are interested in the event thereof, such cause or matter shall be removed, under the order of the court, to the district court in the nearest county of an adjacent district, for trial, and shall be proceeded in to trial and judgment, in all respects as if the same had originated in the county to which the same shall have been removed; and whenever any cause shall have been removed from the county in which the same originated, either under this or the preceding section, a duly certified copy of the final judgment rendered therein, may be taken by the party

recovering the same, and presented to the clerk of the court of the county from which the cause was removed; and said clerk shall forthwith record the same in the journal of said last mentioned court; and from the time of such entry upon record, said judgment shall operate as a lien upon the real estate of the debtor, as fully as though the same had been on that day rendered in said last mentioned county.

Process, remedies and laws, under the old and new constitutions.

SEC. 18. All process and remedies authorized by the laws of this State, when the present constitution took effect, may be had, and resorted to, in the courts of the proper jurisdiction, under the present constitution; and all the laws regulating the practice of, and imposing duties upon, or granting powers to the supreme court, or any judge thereof, and the courts of common pleas respectively under the former constitution, except as to matters of probate jurisdiction, in force when the present constitution took effect, shall govern the practice of, and impose the like duties upon the district courts, and courts of common pleas respectively, created by the present constitution, so far as such process, remedies and laws may be applicable to said courts and judges respectively, or any judge thereof.

Oath.

SEC. 19. Each judge of the supreme court, and of the courts of common pleas, before entering upon the duties of his office, shall take an oath or affirmation, pursuant to the seventh section of the fifteenth article of the constitution, to support the constitution of the United States, and the constitution of the State of Ohio, to administer justice without respect to persons, and faithfully and impartially to discharge and perform all the duties incumbent upon him as such judge, according to the best of his ability and understanding; and the said oath, with the certificate of the officer administering the same, shall be endorsed on the commission of such judge.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

February 19, 1852.

AN ACT

Fixing and providing for the terms of the District Courts of the State of Ohio.

Terms of District Courts.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the terms of the District Courts shall be holden in the several counties of the State, commencing as follows:

FIRST CIRCUIT.

Second Common Pleas District.

2d Common Pleas District.

In the county of Butler on the tenth day of May.
In the county of Preble on the seventeenth day of May.
In the county of Darke on the twenty-fourth day of May.
In the county of Miami on the thirty-first day of May.
In the county of Champaign on the seventh day of June.
In the county of Clark on the fourteenth day of June.
In the county of Greene on the twenty-fourth day of June.
In the county of Clinton on the twenty-eighth day of June.
In the county of Warren on the fifth day of July.
In the county of Montgomery on the twelfth day of July.

Third Common Pleas District.

3d Common Pleas District.

In the county of Shelby on the second day of August.
In the county of Mercer on the fifth day August.
In the county of Auglaize on the ninth day of August.
In the county of Allen on the eleventh day of August.
In the county of Hardin, on the thirteenth day of August.
In the county of Logan, on the sixteenth day of August.
In the county of Union, on the twentieth day of August.
In the county of Marion, on the twenty-third day of August.
In the county of Crawford, on the twenty-sixth day of August.
In the county of Wyandot, on the thirtieth day of August.
In the county of Seneca, on the first day of September.
In the county of Hancock, on the sixth day of September.
In the county of Putnam, on the eighth day of September.
In the county of Vanwert, on the tenth day of September.
In the county of Paulding, on the thirteenth day of September.
In the county of Defiance, on the fifteenth day of September.
In the county of Williams, on the seventeenth day of September.
In the county of Fulton, on the twentieth day of September.
In the county of Henry, on the twenty-second day of September.
In the county of Wood, on the twenty-fourth duy of September.

SECOND CIRCUIT.

Sixth Common Pleas District.

6th Common Pleas District.

In the county of Wayne, on the third day of May.
In the county of Holmes, on the twelfth day of May.

In the county of Coshocton, on the seventeenth day of May.
In the county of Licking, on the twenty-first day of May.
In the county of Delaware, on the twenty-eighth day of May.
In the county of Morrow, on the thirty-first day of May.
In the county of Knox, on the fourth day of June.
In the county of Richland, on the eleventh day of June.
In the county of Ashland, on the twenty-first day of June.

Fourth Common Pleas District.

4th Common Pleas District.

In the county of Lucas, on the second day of August
In the county of Ottawa, on the ninth day of August.
In the county of Sandusky, on the eleventh day of August.
In the county of Erie, on the sixteenth day of August.
In the county of Huron, on the twenty-third day of August.
In the county of Lorain, on the thirtieth day of August.
In the county of Medina, on the second day of September.
In the county of Summit, on the sixth day of September.
In the county of Cuyahoga, on the thirteenth day of September.

THIRD CIRCUIT.

Fifth Common Pleas District.

5th Common Pleas District

In the county of Clermont, on the third day of May.
In the county of Brown, on the tenth day of May.
In the county of Adams, on the seventeenth day of May.
In the county of Highland, on the twenty-first day of May.
In the county of Ross, on the twenty-seventh day of May.
In the county of Fayette, on the third day of June.
In the county of Madison, on the ninth day of June.
In the county of Franklin, on the fourteenth day of June.
In the county of Pickaway, on the twenty-first day of June.

Seventh Common Pleas District.

7th Common Pleas District.

In the county of Perry, on the twelfth day of August.
In the county of Fairfield, on the sixteenth day of August.
In the county of Hocking, on the twenty-third day of August.
In the county of Athens, on the twenty-fifth day of August.
In the county of Vinton, on the twenty-eighth day of August.
In the county of Jackson, on the thirty-first day of August.
In the county of Pike, on the second day of September.
In the county of Scioto, on the fourth day of September.
In the county of Lawrence, on the eighth day of September.
In the county of Gallia, on the eleventh day of September.
In the county of Meigs, on the fourteenth day of September.
In the county of Washington, on the seventeenth day of September.

FOURTH CIRCUIT.

Ninth Common Pleas District.

9th Common Pleas District.

In the county of Geauga, on the fifteenth day of April.
In the county of Lake, on the nineteenth day of April.

In the county of Ashtabula, on the twenty-third day of April.
In the county of Trumbull, on the twenty-eighth day of April.
In the county of Mahoning, on the tenth day of May.
In the county of Columbiana, on the fourteenth day of May.
In the county of Carroll, on the twentieth day of May.
In the county of Stark, on the twenty-fourth day of May.
In the county of Portage, on the twenty-eighth day of May.

Eighth Common Pleas District.

8th Common Pleas District.

In the county of Tuscarawas, on the second day of August.
In the county of Harrison, on the sixth day of August.
In the county of Jefferson, on the eleventh day of August.
In the county of Belmont, on the eighteenth day of August.
In the county of Monroe, on the twenty-fifth day of August.
In the county of Guernsey, on the thirtieth day of August.
In the county of Morgan, on the sixth day of September.
In the county of Muskingum, on the tenth day of September.

FIFTH CIRCUIT.

First Common Pleas District.

1st Common Pleas District.

In the county of Hamilton, on the first Monday of April, and on the first Monday of September.

SEC. 2. If from any cause a failure to hold the prescribed term of the District Court in any county should occur, it shall be the duty of the Judges of the District Court, on giving thirty days previous notice in such county, to hold a special term of the District Court in such county, within the same year, to dispose of the business pending; and should important business arise in the District Court in any county, which cannot be disposed of at the stated term of the court for want of time, it shall be lawful for the Judges of the District Court, to hold a special term of the District Court in such county, at such time as they shall determine, on giving thirty days previous notice thereof, in the county.

Sunday.

SEC. 3. Should any day named herein for the holding of said District Court, fall upon Sunday, the said Court shall commence and be holden on the next day.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

January 23, 1852.

AN ACT

To fix and provide for the terms of the Courts of Common Pleas of the State of Ohio.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the terms of the Courts of Common Pleas, shall be holden in the several counties of the State, as follows: Terms of Common Pleas Courts.

SECOND COMMON PLEAS DISTRICT.

FIRST SUBDIVISION.

In the county of Butler, on the twenty-fourth day of February, the twentieth day of July, and the twenty-eighth day of September. Butler.

In the county of Preble, on the twenty-third day of March, the tenth day of August, and the twenty-sixth day of October. Preble.

In the county of Darke, on the sixth day of April, the twenty-fourth day of August, and the sixteenth day of November. Darke.

SECOND SUBDIVISION.

In the county of Montgomery, on the thirteenth day of April, the seventh day September, and the twenty-third day of November. Montgomery.

In the county of Miami, on the thirtieth day of March, the tenth day of August, and the twenty-sixth day of October. Miami.

In the county of Champaign, on the fifteenth day of March, the twentieth day of July, and the twenty-eighth day of September. Champaign.

THIRD SUBDIVISION.

In the county of Warren, on the sixteenth day of March, the seventeenth day of August, and the nineteenth day of October. Warren.

In the county of Clinton, on the sixth day of April, the seventh day of September, and the second day of November. Clinton.

In the county of Greene, on the thirteenth day of April, the twenty-first day of September, and the twenty-third day of November. Greene.

In the county of Clark, on the sixteenth day of March, the third day of August, and the thirteenth day of October. Clark.

THIRD DISTRICT.

FIRST SUBDIVISION.

In the county of Shelby, on the third day of May, the fifth day of July, and the sixth day of December. Shelby.

Auglaize. In the county of Auglaize, on the eight day of March, the twenty-fourth day of May, and the eleventh day of October.

Allen. In the county of Allen, on the first day of March, the seventeenth day of May, and the fourth day of October.

Hardin. In the county of Hardin, on the fifteenth day of March, the thirty-first day of May, and the eighteenth day of October.

Logan. In the county of Logan, on the nineteenth day of April, the twenty-first day of June, and the twenty-second day of November.

Union. In the county of Union, on the fifth day of April, the fourteenth day of June, and the eighth day of November.

Marion. In the county of Marion, on the twenty-second day of March, the seventh day of June, and the twenty-fifth day of October.

SECOND SUBDIVISION.

Mercer. In the county of Mercer, on the fourth day of May, the twenty-third day of July, and the twentieth day of December.

Van Wert. In the county of Van Wert, on the twenty-seventh day of April, the nineteenth day of July, and the fourteenth day of December.

Putnam. In the county of Putnam, on the second day of March, the first day of June, and the nineteenth day of October.

Paulding. In the county of Paulding, on the twentieth day of April, the thirteenth day of July, and the seventh day of December.

Defiance. In the county of Defiance, on the thirteenth day of April, the twenty-fourth day of June, and the seventeenth day of November.

Williams. In the county of Williams, on the sixth day of April, the first day of July, and the twenty-fourth day of November.

Henry. In the county of Henry, on the twenty-fourth day of May, and the second day of November.

Fulton. In the county of Fulton, on the twenty-third day of March, the seventeenth day of June, and the tenth day of November.

THIRD SUBDIVISION.

Wood. In the county of Wood, on the first day of March, and the twentieth day of September.

Crawford. In the county of Crawford, on the twenty-ninth day of March, the thirteenth day of July, and the nineteenth day of October.

Hancock. In the county of Hancock, on the eighth day of March, the seventh day of June, and the fourth day of October.

Wyandot. In the county of Wyandot, on the fifteenth day of March, the fifth day of July, and thirteenth day of October.

Seneca. In the county of Seneca, on the sixth day of April, the twentieth day of July, and the second day of November.

FOURTH DISTRICT.

FIRST SUBDIVISION.

In the county of Lucas, on the twelfth day of April, the twelfth day of July, and the fifteenth day of November. Lucas.

In the county of Ottawa, on the seventh day of April, and the tenth day of November. Ottawa.

In the county of Sandusky, on the twenty-ninth day of March, the twenty-eighth day of June, and the first day of November. Sandusky.

In the county of Erie, on the twenty-ninth day of February, the twenty-fourth day of May, and the twenty-seventh day of September. Erie.

In the county of Huron, on the fifteenth day of March, the fourteenth day of June, and the eighteenth day of October. Huron.

SECOND SUBDIVISION.

In the county of Lorain, on the twenty-fourth day of February, the fourth day of May, and the thirteenth day of October. Lorain.

In the county of Medina, on the ninth day of March, the eighteenth day of May, and the twenty-sixth day of October. Medina.

In the county of Summit, on the twenty-third day of March, the first day of June, and the ninth day of November. Summit.

THIRD SUBDIVISION.

In the county of Cuyahoga, on the tenth day of March, the sixteenth day of June, and the sixth day of October. Cuyahoga.

FIFTH DISTRICT.

FIRST SUBDIVISION.

In the county of Clermont, on the sixteenth day of March, the twentieth day of July, and the twenty-third day of November. Clermont.

In the county of Brown, on the sixth day of April, the thirty-first day of August, and the second day of November. Brown.

In the county of Adams, on the twentieth day of April, the seventeenth day of August, and the nineteenth day of October. Adams.

SECOND SUBDIVISION.

In the county of Highland, on the thirteenth day of April, the tenth day of August, and the twenty-third day of November. Highland.

Ross. In the county of Ross, on the second day of March, the thirteenth day of July, and the nineteenth day of October.

Fayette. In the county of Fayette, on the thirtieth day of March, the twenty-seventh day of July, and the ninth day of November.

THIRD SUBDIVISION.

Pickaway. In the county of Pickaway, on the eighth day of April, the seventeenth day of August, and the second day of November.

Franklin. In the county of Franklin, on the sixteenth day of March, the twentieth day of July, and the thirtieth day of November.

Madison. In the county of Madison, on the twenty-second day of April, the thirty-first day of August, and the sixteenth day of November.

SIXTH DISTRICT.

FIRST SUBDIVISION.

Licking. In the county of Licking, on the fifth day of April, the second day of August, and the eighteenth day of October.

Knox. In the county of Knox, on the fifteenth day of March, the sixteenth day of August, and the fifteenth day of November.

Delaware. In the county of Delaware, on the twenty-third day of February, the twenty-sixth day of April, and the thirtieth day of August.

SECOND SUBDIVISION.

Morrow. In the county of Morrow, on the twenty-third day of February, the ninth day of August, and the eighteenth day of October.

Richland. In the county of Richland, on the 22d day of March, the thirtieth day of August, and the fifteenth day of November.

Ashland. In the county of Ashland, on the first day of March, the sixteenth day of August, and the twenty-fifth day of October.

THIRD SUBDIVISION.

Wayne. In the county of Wayne, on the twenty-ninth day of March, the sixth day of September, and the fifteenth day of November.

Holmes. In the county of Holmes, on the eighth day of March, the twenty-third day of August, and the twenty-fifth day of October.

Coshocton. In the county of Coshocton, on the twenty-fourth day of February, the tenth day of August, and the thirteenth day of October.

SEVENTH DISTRICT.

FIRST SUBDIVISION.

In the county of Fairfield, on the first day of March, the seventeenth day of May, and the fourth day of October. Fairfield.

In the county of Perry, on the fifteenth day of March, the fourteenth day of June, and the eighteenth day of October. Perry.

In the county of Hocking, on the fifth day of April, the fifth day of July, and the fifteenth day of November. Hocking.

SECOND SUBDIVISION.

In the county of Jackson, on the fifteenth day of March, the tenth day of May, and the twenty-seventh day of September. Jackson.

In the county of Vinton, on the twenty-ninth day of March, the twenty-eighth day of June, and the eighth day of November. Vinton.

In the county of Pike, on the twenty-second day of March, the seventeenth day of May, and the fourth day of October. Pike.

In the county of Scioto, on the twenty-ninth day of March, the twenty-fourth day of May, and the eleventh day of October. Scioto.

In the county of Lawrence, on the nineteenth day of April, the twenty-fourth day of June, and the eighth day of November. Lawrence.

THIRD SUBDIVISION.

In the county of Gallia, on the eighth day of March, the thirty-first day of May, and the twenty-fifth day of October. Gallia.

In the county of Meigs, on the twenty-second day of March, the twenty-fourth day of May, and the eighteenth day of October. Meigs.

In the county of Athens, on the twelfth day of April, the seventh day of June, and the twenty-fifth day of October. Athens.

In the county of Washington, on the fifth day of April, the fourteenth day of June, and the fourth day of October. Washington.

EIGHTH DISTRCT.

FIRST SUBDIVISION.

In the county of Muskingum, on the second day of March, the eighteenth day of May, and the twenty-first day of September. Muskingum.

In the county of Morgan, on the thirtieth day of March, the eighth day of June, and the ninth day of November. Morgan.

In the county of Noble, on the twentieth day of April, the fifteenth day of June, and the twenty-sixth day of October. Noble.

SECOND SUBDIVISION.

Guernsey. In the county of Guernsey, on the fourth day of May, the twenty-second day of June, and the twenty-third day of November.

Belmont. In the county of Belmont, on the second day of March, the eighteenth day of May, and the twenty-second day of September.

Monroe. In the county of Monroe, on the twenty-third day of March, the first day of June, and the thirteenth day of October.

THIRD SUBDIVISION.

Jefferson. In the county of Jefferson, on the twentieth day of April, the twenty-second day of June, and the ninth day of November.

Harrison. In the county of Harrison, on sixth day of April, the eighth day of June, and the twenty-sixth day of October.

Tuscarawas. In the county of Tuscarawas, on the twenty-third day of March, the eighteenth day of May, and the thirteenth day of October.

NINTH DISTRICT.

FIRST SUBDIVISION.

Stark. In the county of Stark, on the twenty-ninth day of March, the first day of June, and the first day of November.

Carroll. In the county of Carroll, on the twenty-second day of March, the twenty-eighth day of June, and the fourth day of October.

Columbiana. In the county of Columbiana, on the eighth day of March, the fourteenth day of June, and the fourteenth day of October.

SECOND SUBDIVISION.

Trumbull. In the county of Trumbull, on the twenty-ninth day of March, the twenty-ninth day of June, and the second day of November.

Portage. In the county of Portage, on the ninth day of March, the fifteenth day of June, and the twelfth day of October.

Mahoning. In the county of Mahoning, on the twenty-fourth day of February, the first day of June, and the twenty-first day of September.

THIRD SUBDIVISION.

Geauga. In the county of Geauga, on the first day of March, the seventh day of June, and the twentieth day of September.

Lake. In the county of Lake, on the fifteenth day of March, the seventeenth day of June, and the fourth day of October.

In the county of Ashtabula, on the twenty-ninth day of March, the twenty-eighth day of June, and the eighteenth day of October. Ashtabula.

Sec. 2. That whenever the state of business in any of the said courts of Common Pleas, is such as to render it necessary, such court shall have power to appoint and hold an adjourned term for the purpose of completing the business of any regular term, and notice thereof shall be entered upon its journals; and in case any of the foregoing days assigned shall be Sunday, the term shall commence on the Monday next succeeding. Adjourned term.

Sec. 3. That all acts in conflict with the provisions of this act, be and the same are hereby repealed. Repealed.

Sec. 4. The Clerk of the Court of Common Pleas of any of said counties, in which there shall not be sufficient time to draw juries, and issue writs of venire facias, before the first or any other term, as pointed out in the fourth section of the act relating to juries, shall, nevertheless, draw juries and issue writs at any time before the sitting of such courts; and the court, when convened, may order the same to be returned forthwith; and the sheriff to whom any writ may be issued, shall serve and return the same, according to the command thereof; and such service and return shall be as valid as if such writ had been issued thirty days previous to the sitting of the court. Juries, writs, &c.

Sec. 5. That the Sheriff, Coroner, or Master Commissioner, as the case may be, of any of the counties of this State, to whom process has or may be issued, upon which such officers, or either of them, have or may advertise any sale or sales of real estate, in pursuance to law, and in which the day named for such sale or sales, shall be a day after the first day of the commencement of the Spring term for the year one thousand eight hundred and fifty-two, of the Court of Common Pleas of the county to which such process is returnable, may nevertheless proceed with such sale or sales, and make return thereof to the proper court, during its session; and such return and proceedings shall be as valid as if the same had been made on or before the second day of the term of the court to which the same was returnable. Sales of real estate.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

February 18, 1852.

AN ACT

To fix permanently the times and manner of holding the Courts of Common Pleas, and District Court, in Hamilton county, and to provide for the organization and practice thereof.

Court of Common Pleas, when term to commence.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the first term of the Court of Common Pleas, in and for the first District, shall commence on the second Monday of February, eighteen hundred and fifty two, and that the regular terms thereof, shall thereafter commence on the first Monday in May, the first Monday in October, and the first Monday in January, in each year; Provided, however, that the Judges of said Court may hold special terms thereof whenever they shall deem it necessary.

Special terms may be held.

Powers and duties of Judges

SEC. 2. That the Judges of the said Court may sit separately or otherwise, as they shall at any time deem it expedient; and may prescribe the mode of keeping and authenticating the minutes of proceedings had before them, or any of them; and may, at the beginning of each term, and at all times thereafter, when necessary, classify and distribute among themselves, for trial and determination, the business pending in said Court, as they shall deem most convenient to the public interests; and may from time to time, adopt and publish rules of practice, regulating the docketing of causes, and motions, the return of process, the time and manner of filing pleadings, the entering and opening of defaults, the setting of causes and matters for trial, or hearing, and also such other matters of practice as may be necessary for the advancement of justice, not inconsistent with the laws of this State, and prevention of delay, causing all such rules to be entered on their journals.

District Court, when held.

SEC. 3. That two terms of the District Court shall be held in said District in each year, commencing on the first Monday in April, and the first Monday in September respectively; and

Powers and duties of Judges.

that the Judges thereof shall have such powers to adopt and publish rules of practice for the said Court, as are conferred by the second section of this act upon the Judges of the Court of Common Pleas; Provided, however, that they shall conform as near as may be, to such rules of practice as may from time to time be adopted by the Judges of the Supreme Court.

SEC. 4. That the term of February, eighteen hundred and fifty-two, of the Court of Common Pleas, as now established by law, be, and the same is hereby abolished; and that all process, mesne and final, all recognizances, and all business of whatever kind, not disposed of previously thereto, shall be returnable, and continued to the February term of the Court of Common Pleas, as fixed by this act.

Records in Common Pleas to be completed.

SEC. 5. That in all cases, where the record of proceedings had in the Court of Common Pleas, prior to the second Monday in February, eighteen hundred and fifty-two, shall not on

or before that time have been fully completed, and signed, as required by law, the same shall be made up by the Clerk of the said Court for the time being, with all convenient despatch, and be signed by any one of the Judges for the time being, of the Court of Common Pleas.

Cases pending in Superior Court.

SEC. 6. That all cases pending in the Superior Court of Cincinnati, in which the Judge thereof has been interested as counsel, or otherwise, the fact being suggested of record in the said Court, shall, together with the files of papers and copies of all orders made therein, be certified and removed into the Court of Common Pleas, and be there disposed of, as if originally commenced therein.

Authority transferred.

SEC. 7. That any authority conferred upon the President Judge of the Court of Common Pleas in the county of Hamilton, as heretofore organized by any existing laws, not inconsistent with the constitution of this State, may be exercised by any one of the judges of the Court of Common Pleas, in and for the said first district, as now constituted.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

January 23, 1852.

AN ACT

To repeal the act entitled an "Act to fix the times for holding Courts in the Eleventh Judicial Circuit.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the act entitled an "Act to fix the times for holding Courts in the eleventh Judicial Circuit," passed January ninth, one thousand eight hundred and fifty-one, be and the same is hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
W. MEDILL,
President of the Senate.

January 13, 1852.

AN ACT

To repeal so much of the acts fixing the times of holding the Courts of Common Pleas, as relates to the counties of Erie and Lorain.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That so much of the act fixing the times of holding the Courts of Common Pleas in the Thirteenth Judicial Circuit, as relates to the County of Erie, passed January 10th, 1851, and so much of the act prescribing the times of holding the Court of Common Pleas in the Fourteenth Judicial Circuit, as relates to the County of Lorain, passed January seventeenth, 1851, be and the same are hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
W. MEDILL,
President of the Senate.

January 16, 1852.

AN ACT

Defining the jurisdiction and regulating the practice of Probate Courts.

Probate Court, where established.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That there shall be established in each county of this State, a Probate Court, which shall be held at the county seat of each county.

Jurisdiction of.

SEC. 2. The said Probate Court shall have exclusive jurisdiction, except as hereinafter provided, in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators and guardians, the issuing of marriage licenses, and concurrent jurisdiction with the Courts of Common Pleas in the sale of lands on petition by executors, administrators, and by the guardians of minors, idiots and lunatics, and the assignment of dower in such cases of sale, and for the completion of real contracts on petition of executors and administrators, and in allowing and issuing writs of habeas corpus; and shall have power to administer oaths in all cases where oaths are required by law, and to take the acklowledgment of deeds and mortgages and other instruments of writing, and on good cause shown, in the vacation of the Court of Common Pleas, to allow writs of injunction and writs of certiorari directed to justices of the peace, returnable to the Court of Common Pleas of his county.

Same subject.

SEC. 3. That in addition to the other powers and jurisdiction of the Judge of the Probate Court, as provided by this act, the said court shall have jurisdiction in the trial and con-

viction of persons accused of any crime or misdemeanor, in the trial of which, by the constitution and laws of this State, a presentment or indictment by a grand jury shall not be required; and also, in inquests as to lunatics, insane persons and idiots; and said Judge shall further have power to take depositions in all cases where the same may be taken by the laws of this State; which powers and jurisdiction shall be exercised and employed in such manner as shall be prescribed by law; Provided, however, that so much of the provisions of this section as confers jurisdiction upon the Probate Court in criminal cases, shall not extend to the Probate Courts of the counties of Hamilton and Cuyahoga. Exceptions.

Judge refusing to admit will to probate, &c.

SEC. 4. That in case the Judge of Probate shall refuse to admit any will of a deceased person to probate, the person or persons presenting the same for probate shall have the right to appeal from such decision to the Court of Common Pleas of the proper county; and in all cases where any will of a deceased person shall be regularly admitted to probate, any person shall have the right to contest the validity of said will, by filing his or her petition for that purpose in the Court of Common pleas of the proper county; and, upon filing said petition, the clerk of the Court of Common Pleas shall certify the fact to the Probate Court in which said will shall have been admitted to probate, and thereupon said Judge shall transmit to said Court of Common Pleas, said will, and copies of all such testimony and papers as may have been filed in his office appertaining thereto; and the judgment of the Court of Common Pleas, in either of the cases contemplated by this section, shall be certified to said Judge of Probate.

Right to contest will, admitted to probate, and how to proceed, &c.

Grant license to marry.

SEC. 5. That the Probate Courts shall have exclusive authority to license Ministers of the Gospel to solemnize marriages; and in issuing marriage licenses, the Judges of said Courts shall perform the duties now required of the clerks of the Courts of Common Pleas, be subject to the same liabilities, and be governed by the existing laws regulating marriages.

Marriage license.

Process and rules.

SEC. 6. That the Judges of the Probate Courts shall have full power and authority to issue whatever process may be necessary for the efficient discharge of their duties, and to make and publish rules and orders regulating the business and practice of their several Courts, not inconsistent with the laws of this State.

May perform duties of clerk, may appoint deputy; powers and duties of deputy.

SEC. 7. That the Judges of said Courts shall have the care and custody of all files, papers, books and records belonging to the probate office, except as otherwise provided in this act, and are hereby authorized and empowered to perform the duties of clerks of their own courts; every Judge of Probate shall have power to appoint a deputy clerk, who shall, previous to entering upon the duties of his appointment, take an oath or affirmation, faithfully to perform all the duties of his appointment; and when so qualified, said deputy may do and perform

any and all the duties appertaining to the office of clerk of said court; and every Probate Judge may take such bond from his deputy as he may deem necessary to secure the faithful performance of the duties of his appointment.

Seal.

SEC. 8. That said Probate Court shall have a common seal, to be provided by the commissioners of the proper county, having the same device as the seals of the Court of Common Pleas, except there shall be engraved around the margin thereof, in addition to the name of the proper county, the words "Probate Court," instead of the words "Common Pleas." That all writs and process issuing from said court, shall be under the seal thereof, and shall bear test and be signed by the Judge issuing the same; and all transcripts issuing from said court under the seal thereof, and signed by the Judges, shall be received, as evidence of the facts therein contained, in all the courts of this State.

Duty of Sheriff.

SEC. 9. It is hereby made the duty of the sheriffs of the several counties of this State, to serve and execute all process directed to them by said Judges of Probate, in their respective counties; and they shall be subject to fine and amercement as provided by law for the neglect or refusal to discharge the duties required of them; and it is hereby made the duty of the Sheriff of each county, or his deputy, to attend the Probate Court of his county, under the direction of the Judge thereof; and such sheriff shall receive, for his service of process, like fees as are now provided by law.

Contempt, how punished.

SEC. 10. Contempt of the authority of said Judges, in any cause or hearing before them, may be punished in like manner as such contempt may be punished in the court of common pleas; and if any person summoned to appear as witness before them, shall refuse to appear and give evidence, such person shall be liable to like penalty or damage as for refusing to appear and give evidence before the court of common pleas.

Judge not to practise law.

SEC. 11. No Probate Judge shall practise law in any of the Courts of Record of this State, or appear as counsel, before any Justice of the Peace or board of arbitration; Provided, that nothing in this section contained shall prevent any Probate Judge of this State from finishing any business by him commenced prior to the passage of this act, not connected with his official business.

Further prohibitions.

SEC. 12. That no Probate Judge shall act as executor or administrator of any estate, or as guardian for any minor, idiot or lunatic; or if he shall be interested as heir, legatee, devisee, or in any other manner, in any estate which may be required to be settled in the county where he resides, all such estates and accounts of guardianship shall be settled by the court of common pleas of such county; Provided, that any Probate Judge, who is now acting as executor, administrator or guardian, may continue to discharge the duties thereof till said trusts can be duly closed and settled.

Judge to publish notice of the counts.

SEC. 13. It shall be the duty of the Probate Judge to cause notice to be published in some newspaper of the county, if any be published therein, or if not, by posting the same upon the door of the court house of said county, of the filing of any accounts by executors, administrators or guardians, specifying the time when such accounts shall be heard, which shall not be less than three weeks after the publication of such notice, at which time it shall be competent for said Judge of Probate, for cause, to allow further time to file exceptions to said accounts; and the costs of such notice shall be paid, if more than one account be specified in the same notice, in equal proportions by the executors, administrators or guardians respectively.

Costs, how paid.

Judge may examine, under oath, executors.

SEC. 14. The Judge of Probate shall have full power and authority to examine under oath, all executors, administrators and guardians, touching their accounts; and if he shall think proper so to do, he may reduce such examination to writing, and require such executor, administrator or guardian, to sign the same; and such written examination shall be filed with the papers in the case.

What laws to govern Judges.

SEC. 15. That in the exercise of all the duties and jurisdiction imposed and conferred upon Judges of Probate, they shall be governed by the laws now in force upon the subjects respectively to which they relate, until otherwise provided by law.

Final order, &c. may be reversed.

SEC. 16. That the final judgments, orders or decrees of the court of Probate of any county in this State, may be reviewed, reversed or affirmed, in the Court of Common Pleas of such county, by appeal or certiorari; and, in case of appeal, the party appealing shall give bond and security to the satisfaction of such Judge of Probate, conditioned for the payment of all costs that may accrue in consequence of such appeal, in case such order, judgment or decree shall be affirmed; but no such appeal shall be allowed unless it shall be perfected within thirty days from the date of such judgment, order or decree; Provided, no bond for appeal shall be required when the appeal is taken by an executor, administrator or guardian who has given bond as required by law, or by minors, idiots or lunatics; and in cases of certiorari, the party applying for the same, shall give bond in such manner as is now provided by law.

Judge to take oath and give bond.

SEC. 17. Before any Probate Judge shall enter upon the discharge of the duties of his office, he shall take an oath or affirmation to support the constitution of the United States, the constitution of the State of Ohio, and that he will faithfully, diligently and impartially discharge the duties of Probate Judge to the best of his skill and ability; and shall also give bond with sufficient security, to be approved by the board of county commissioners of the proper county; or, in the absence of any two of said commissioners from the county when said bond is to be executed, by the auditor and recorder of the proper county of the State of Ohio, in any sum not less than five thousand dol-

lars, conditioned that he will truly and faithfully pay over all moneys that may by him be received in his official capacity, and that he will enter and record all the orders, decrees, judgments and proceedings of said Court, and faithfully and impartially discharge and perform all the duties of his said office; which bond, with his oath or affirmation endorsed upon the same, shall be lodged with the county treasurer.

Duty of Common Pleas Clerks.

SEC. 18. The several clerks of the Courts of Common Pleas of this State, are hereby required to transfer to the Probate Court of their respective counties, all records, files, papers and proceedings appertaining to the exclusive jurisdiction of said Courts of Probate, so far as the same are capable of being separated from the proper journals and records of the Courts of Common Pleas, and shall also make out and certify full transcripts of any journal entries relating to Probate matters which may be pending in said courts, on request of any Probate Judge or person interested, together with a copy of the general laws of the State.

Fees.

SEC. 19. That the several Judges of Probate, in their capacity as clerks, shall be entitled to tax and receive such fees as are now prescribed in the fee bill regulating the taxation of costs in the Courts of Common Pleas, so far as pertains to matters within the jurisdiction of Probate Courts.

Office and stationery.

SEC. 20. The county commissioners of each county in this State, shall provide a suitable office or offices for the acoommodation of the Probate Judge of the county, and shall furnish all stationery, and such other things as may be necessary for the prompt discharge of the duties of said judges.

Repealed.

SEC. 21. That the one hundred and sixty-fifth and the one hundred and sixty-sixth sections of the act entitled "An act to provide for the settlement of the estates of deceased persons," passed March 23, 1840, be, and the same are hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

February 25, 1852.

AN ACT

To repeal the act entitled an act to amend the act entitled an act establishing the Superior Court in the city of Cincinnati, passed March 8th, 1845, and to provide for the time of holding the terms of said Court, and the return of process thereto.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That there shall be a term of the Superior Court of Cincinnati, commencing on the first Monday of April next, and

a term of said Court commencing on the first Monday of July next; Provided, said July term shall not continue beyond the nineteenth day of said month; and all process issued out of said Court, returnable to the next June term, and all notifications to appear at said term, shall be considered as if originally made to the April term herein provided. The act to amend the act entitled an act to amend the act establishing a Superior Court in the city of Cincinnati, passed March eighth, one thousand eight hundred and forty-five, is hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
AARON PARDEE,
President of the Senate pro tempore.

February 26, 1852.

AN ACT

To amend the act entitled an act to amend the act creating the Commercial Court of Cincinnati, passed March 22d, 1850.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio,* That there shall be a term of the Commercial Court of Cincinnati, commencing on the first Monday of April next, and a term of said court, commencing on the first Monday of July next; Provided, that said, July term shall not continue beyond the nineteenth day of said month; and all process issued out of said court, returnable to the next May term, and all notifications to appear at said term, shall be considered as if originally made to the April term herein provided. The first section of the act to amend the act creating the Commercial Court of Cincinnati, passed March 22d, 1850, which reads as follows: "That hereafter there shall be a term of the Commercial Court of Cincinnati, to commence on the first Monday in May in each year, and so much of the act establishing the said Court, passed February 4th, 1848, as requires it to hold terms on the first Monday of April, and first Monday of July in each year, be and the same is repealed," is hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
AARON PARDEE,
President of the Senate pro tempore.

February 18, 1852.

AN ACT

To create a court of Criminal Jurisdiction in Hamilton County.

Establishment of an exclusively Criminal Court.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That in the county of Hamilton, there shall be, and is hereby established, a court of criminal jurisdiction, exclusively, in addition to the courts of record already provided for by the constitution.

By what name known.

SEC. 2. That said court shall be known by the name of "the Criminal Court of Hamilton county," and shall hold such terms, and try such cases, of a criminal nature, as are hereinafter provided.

One judge to hold court. Term of office. How elected & when.

SEC. 3. That the said court shall be held by one judge, whose term of office shall be five years, and who shall be elected by the qualified electors of the said county of Hamilton, at the same time and in the same manner that the judges of the court of common pleas are elected in said county, except the first election, which shall be held on the first Monday in April, 1852; and the judge so elected on the first Monday of April, one thousand eight hundred and fifty-two, shall hold his office until the second Monday in February, 1857. Said judge shall receive the same salary, take the same oath of office, and be removed for the same causes, as the judges of the court of common pleas.

His salary, oath, removal.

SEC. 4. The election for said judge, and the returns thereof, shall be the same in all respects, as in the election of the judges of the court of common pleas.

Of what said Court shall have jurisdiction.

SEC. 5. That said criminal court shall have full and complete jurisdiction of all crimes, offences and misdemeanors committed in said county of Hamilton, to the same extent and in the same manner that the several courts of common pleas in other counties of this State, shall, or may have jurisdiction or cognizance of, in like cases; and the court of common pleas shall have no jurisdiction in said county of Hamilton, concurrent with said criminal court, of any matter or cause the jurisdiction whereof is by this act conferred upon said criminal court, at any time hereafter, except to complete and carry into final execution, causes and matters already pending in said common pleas court.

Seal.

SEC. 6. That said criminal court shall have a seal, provided at the expense of said Hamilton county, by which all precepts and ministerial and judicial acts shall be authenticated; said seal shall have the same device as the seals of the court of common pleas, except there shall be engraved around the margin thereof, in addition to the name of the proper county, the words "Criminal Court," instead of the words "Common Pleas;" and said court shall keep a journal and record of its judicial proceedings, agreeable to the laws of this State, now, or hereafter enacted, regulating the practice of judicial courts;

Court to keep a journal and record.

and the clerk of the court of common pleas in said county of Hamilton, shall be the clerk of said criminal court, and shall receive such compensation for his said services, as may hereafter be provided by law. Who shall be clerk.

SEC. 7. That the sheriff of said Hamilton county, shall serve and execute all process to him directed by the judge of said criminal court; and it is hereby made the duty of said sheriff, or his deputy, to attend said court under the direction of the judge thereof; and said sheriff shall receive for his service of process of said court, such fees as may be provided by law, and shall be subject to fine and amercement for neglect or refusal to discharge the duties required of him. Sheriff, his duties and fees.

SEC. 8. That said criminal court shall have power to compel the attendance of jurors, parties and witnesses in said court; to assign counsel for defendants in criminal cases, when they are unable to employ counsel, and to determine the amount of compensation said counsel shall receive; to appoint ministerial officers and agents of said court, and determine the amount of compensation for their services; to administer oaths, punish for contempts, declare forfeitures, entertain motions, pronounce sentences, render judgments, order into custody, admit to bail, or discharge any person charged with, or held to answer for any offence cognizable in said criminal court, or for contempt of court; to prescribe rules of practice; to issue writs; and in every respect to administer justice in all things within the jurisdiction of said criminal court, by whatever means, precepts, process, or proceeding, it shall be lawful for any court of record in this State, to do in the exercise of like jurisdiction, in like cases; and the mode of procedure, process and pleadings in said criminal court, shall be substantially the same as in other courts of record in this State, having like jurisdiction. Powers of said Court.

SEC. 9. That a term of said criminal court shall be held, commencing on the first Monday in May, A. D. 1852, and terms of said court shall be held, commencing on the first Monday of each and every month thereafter. Terms of Court, when held.

SEC. 10. That there shall be drawn and summoned to attend the court of common pleas, at any term thereof, to be held in the said county of Hamilton, after the passage of this act, so many jurors only as shall be required to serve as petit jurors, at such terms; but the grand jury within and for said county, with all its powers, duties and qualifications, is, by this act, transferred to the said criminal court of Hamilton county. Jury.

SEC. 11. That at least fifteen days prior to the commencement of each term of said criminal court, the clerk of said court shall proceed to draw from the jury box, in the manner prescribed by law, the names of twenty-seven jurors, the first fifteen of whom shall be summoned to serve as grand jurors, and the remaining twelve of whom shall be summoned to serve as petit jurors in said criminal court, at the next term thereof; and said clerk shall forthwith issue a venire to the sheriff ac- Same subject.

cordingly; Provided, always, that if, in the opinion of the judge of said criminal court, the business of said court will not require the attendance of a grand jury at any term, he shall give notice in writing, to the clerk, who shall file and deposit the same in his office, and which shall excuse the clerk and sheriff from drawing a grand jury for the next succeeding term.

Same subject.

SEC. 12. That all general laws of this State, which are or shall be in force, providing for or regulating the number, qualifications, selection, drawing and empanneling of grand and petit jurors, to serve in the several courts of common pleas of this State, not inconsistent with the provisions of this act, shall be construed and understood to have reference and application to the criminal court of said Hamilton county.

Prosecuting Attorney, his duty and compensation.

SEC. 13. That it shall be the duty of the Prosecuting Attorney of said county of Hamilton, to prosecute for and in behalf of the State of Ohio, all suits, complaints and controversies pending in said criminal court; and the annual compensation to be allowed to said Prosecuting Attorney, shall hereafter be determined by the judge of said criminal court, at the first term thereof in each year. And the said criminal court shall have the sole power to appoint assistant prosecutors, and to fill all vacancies in the office of Prosecuting Attorney in said county, and to determine the amount of compensation each shall receive for his services in said court, in the same manner that the courts of common pleas may do in other counties in this State.

Assistants, by whom appointed, and compensation, by whom allowed.

In case of inability of criminal judge, who shall hold court.

SEC. 14. That should the judge of said criminal court be prevented by sickness, or disqualified from interest, such as having acted previous to his election as counsel in any cause brought before, or pending in said court, then, in such event, one of the judges of the court of common pleas of Hamilton county, shall hold said court during the hearing of such cause or causes.

Bonds and recognizances.

SEC. 15. That all bonds and recognizances, taken and entered into before justices of the peace, or other examining courts in the county of Hamilton, in any criminal matter whatever, shall hereafter be conditioned for the appearance of parties or witnesses in the criminal court of Hamilton county.

Grand and petit jurors.

SEC. 16. That the number of persons to be annually selected to serve as grand and petit jurors in said county of Hamilton, shall be apportioned, selected and returned, as is or may be provided by law.

SEC. 17. This act shall take effect from and after the passage thereof.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

March 12, 1852.

AN ACT

Regulating Appeals to the District Court.

Appeals, in what cases, and from what courts, may be taken.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That appeals may be taken from all final judgments in civil cases at law, decrees in chancery, and interlocutory decrees dissolving injunctions rendered by the Court of Common Pleas, the Superior and Commercial Courts of Cincinnati, and the Superior Court of Cleveland, in which said courts have original jurisdiction, by any party against whom such judgment or decree shall be rendered, or who may be affected thereby, to the district court; and the cause so appealed shall be again tried, heard and decided, in the district court, in the same manner as though the said district court had original jurisdiction of the cause.

When notice of appeal to be entered upon the record and bond given.

SEC. 2. The party desirous of appealing his cause to the district court, shall, at the term of the court in which the judgment or decree was rendered, enter on the records of the court, notice of such intention, and shall, within thirty days after the rising of such court, give bond, with one or more sufficient sureties, to be approved by the clerk of the court, or any judge thereof, in the penalty and with the condition hereinafter provided.

Judgments, decrees, and appeal bonds.

SEC. 3. In all cases in which the judgment or decree is personal against any party for the payment of money only, the penalty of the appeal bond shall be double the amount of such judgment or decree; in all other cases, including cases in which the judgment or decree is against any party for nominal damages and costs, or for costs only, the court shall, at the time of the rendition of the judgment or decree, ascertain and fix the penalty of the appeal bond, to be given in the event of an appeal, at such reasonable amount as shall, in the opinion of the court, be sufficient to cover any probable loss, damage or injury, which the other party or parties may sustain by the delay, and the costs and damages which may be awarded in the appellate court; each appeal bond shall be payable to the adverse party, or otherwise, as may be directed by the court, where the conflicting interests of the parties require it; and shall be subject to a condition to the effect that the party appealing shall abide and perform the order and judgment of the appellate court, and shall pay all moneys, costs and damages which may be required of, or awarded against said party, by such court.

When a separate appeal may be taken.

SEC. 4. In all cases when the interest of any party desiring an appeal, is separate and distinct from that of the other party or parties, and he shall be desirous to appeal the part of the case in which he is interested, it shall be so allowed by the court, and the penalty and condition of the bond shall be fixed accordingly; and the court shall take such order as to

the papers and pleadings and supplying copies thereof, and in all other respects, in view of a division of the case for the purpose of appeal, as may be deemed right and proper.

When same judgment or decree is rendered by appellate court.

SEC. 5. When the appellate court shall render, substantially, the same judgment or decree which was rendered in the court below, damages shall, or may be, awarded as follows: In all cases where the judgment or decree was, for the payment of money, either personally or otherwise, the appellant shall be adjudged to pay to the appellee or party delayed of payment by the appeal, damages at the rate of five per cent. on the amount of the payment adjudged or decreed in the court below, unless the appellate court shall be satisfied that there was reasonable and proper ground for the appeal; and in any such case, where the court shall be satisfied that the appeal was vexatious, and for the purpose of delay merely, the damages adjudged shall be at the rate of ten per cent.; in all other cases, including those where the judgment or decree is for nominal damages and costs, or costs only, unless the appellate court shall be satisfied that there was reasonable and probable ground for the appeal, there shall be adjudged to the appellee, or party affected by the appeal, damages in such specific sum as may be deemed reasonable, not exceeding two hundred dollars.

In case notice of appeal is entered.

SEC. 6. In case notice of appeal is entered as aforesaid, the court may, on motion of the party entering such notice, on laying him under such reasonable restrictions and terms as they may judge necessary for the security of the adverse party, direct execution to be stayed for thirty days; Provided, that in no case shall administrators or executors and guardians, who may have given bond in this State, with sureties, according to law, be compelled to give bond and security, in order to perfect an appeal, as is above provided; and in such cases, the clerk, if not otherwise directed, shall, at the expiration of thirty days from the rising of the court, make out a transcript, which, together with the papers and pleadings filed in the cause, he shall transmit to the clerk of the district court, according to the provisions of this act, in other cases of appeal.

Lien of opposite party on real estate not to be removed until final determination of cause.

SEC. 7. That in all cases where the party against whom a judgment is rendered, appeals his cause to the district court, the lien of the opposite party on the real estate of said appellant, created by said judgment, shall not be by said appeal removed or vacated; but the real estate of said appellant shall be bound in the same manner as if said appeal had not been taken, until the final determination of the cause in the district court.

When appellant shall pay cost of suit.

SEC. 8. That if the plaintiff appealing, shall not recover a greater sum in the district court, than in the court from which said appeal is taken, exclusive of costs and interest which may have accrued since the rendition of the judgment in the said court, he shall pay all costs that may have accrued in the district court in such case; and if the defendant, in

any personal action, shall remove the same by appeal to the district court, and the plaintiff shall recover, in such cause, a judgment for the same sum, or a larger sum than was recovered in the court below, exclusive of costs, the district court shall render judgment for the sum so recovered, with costs of suit.

When judgment rendered in lower court shall be suspended, clerk to make out transcript, &c.

SEC. 9. That when appeal shall be granted, and bond and security given thereon as aforesaid, the judgment or decree rendered in such case, in the court below, shall thereby be suspended; and the clerk of such court shall forthwith make out an authenticated transcript of the docket or journal entries, and of the final judgment or decree made and rendered in the case; which transcript, together with the original papers and pleadings filed in the cause, he shall deliver into the office of the clerk of the district court, on or before the first day of the term thereof, next after perfecting the appeal in manner aforesaid; Provided, that either party may require a full record to be made of such cause, in the court below; and the same, when so required, shall be made at his own proper costs and charges.

Duty of District Clerks, prior to filing transcripts for an appeal.

SEC. 10. That the clerk of the district court shall, prior to the filing with him of the transcripts, as hereinbefore provided, on the application of either party to an appeal, issue subpœnas for witnesses, returnable to the first day of the next term of said court, on satisfactory proof being made before him that such appeal has been taken.

When a cause is removed by appeal to District Court, how tried.

SEC. 11. That when any cause is removed by appeal into the district court, the appeal shall be tried on the pleadings made up in the court below, unless for good cause shown, the said court shall permit either or both parties to alter their pleadings; in which case, such court shall lay the parties under such equitable rules and restrictions as they may conceive necessary, to prevent delay.

In case of nonsuit, right of appeal.

SEC. 12. That in all cases where a nonsuit may be directed by the court, by reason of irrelevancy of testimony, or by reason that the testimony adduced does not support the case set forth in the declaration; and, also, whenever the testimony shall be arrested from the jury, by reason of which the plaintiff becomes nonsuit, the plaintiff shall have the same right to appeal as in other cases.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

March 28, 1852.

AN ACT

To repeal the act entitled an act to amend the act entitled an act, establishing a Superior Court in the city of Cincinnati, passed March 8th, 1845, and to provide for the time of holding said Court, and the return of process thereto.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That there shall be a term of the Superior Court of Cincinnati, commencing on the first Monday of April next, and a term of said court commencing on the first Monday of July next; Provided, said July term shall not continue beyond the nineteenth day of said month; and all process issued out of said court, returnable to the next June term, and all notifications to appear at said term, shall be considered as if originally made to the April term herein provided. The act to amend the act entitled an act to amend the act establishing a Superior Court in the city of Cincinnati, passed March eighth, one thousand eight hundred and forty-five, is hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

February 26, 1852.

AN ACT

Authorizing special sessions of the Court of Common Pleas.

Special terms of Common Pleas.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That any Judge of the Court of Common Pleas may hold a special term of said court, in any county within his district, at such time as he may prescribe, whenever in his opinion the same may be necessary.

Clerk and Sheriff to draw. Grand and Petit Juries, when notified of special term.

SEC. 2. Whenever any Judge of the Court of Common Pleas shall notify the clerk and sheriff of any county in his district, of the time of holding a special term of said Court, it shall be their duty, immediately to proceed to draw, according to law, a grand and petit jury for said special term; and the clerk shall immediately give notice, by publication in some newspaper printed in said county, and if none shall be printed therein, then in some newspaper having general circulation therein, and also by notice posted up in his office, of the time of holding said special term; which said notice shall be given for at least ten days prior to the day named for the commencement of such special term.

Clerk, duty of, when Juries are drawn.

SEC. 3. Immediately after said juries are drawn, the clerk shall forthwith issue a venire facias to the sheriff, commanding him to summon the persons whose names were drawn as said jurors, to attend at the seat of justice of said county, on the first day of the special term prescribed by the Judge, at ten o'clock, A. M., and the sheriff shall proceed immediately to summon the same according to law.

What business may be transacted at such special term.

SEC. 4. No business shall be transacted at such special term, excepting criminal business, appeals from county commissioners in relation to roads and highways, and the hearing and deciding upon applications for, and objections and remonstrances against ferry licenses.

What process returnable at such term.

SEC. 5. Recognizances of bail, witnesses, subpœnas and other process in criminal cases, may be made returnable to said special term, in the same manner as they are made returnable to any regular term of said court.

SEC. 6. The business enumerated in the fourth section of this act, when continued at any regular term of the court, may be acted upon at such special term; and if continued at any special term, may be acted upon at the next regular term of such court; but all other business of said court shall be unaffected by the holding of such special term.

Provisions of this act, where applicable.

SEC. 7. The provisions of this act shall not be applicable in any counties of this State, wherein special Criminal Courts have or may be established.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

March 2, 1852.

AN ACT

Directing the mode of trials in examining courts, by whom such courts shall be held, and the manner of admitting to bail in criminal cases.

Examining court to be held by Probate Judge.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That when any person shall have been committed to jail charged with the commission of any crime or offence, and wishes to be discharged from such imprisonment, the sheriff or jailor shall forthwith give to the probate judge, clerk and prosecuting attorney, of the proper county, at least three days notice of the time of holding an examining court, whose duty it shall be to attend according to such notice, at the court house; and said judge, having heard the testimony, shall, at his discretion, discharge the accused, admit him or her to bail, or remand

Sheriff to give notice of the time of holding such court.

to prison; and said probate judge shall have power to adjourn from day to day, during such examination, or for such longer period as he shall deem necessary for the furtherance of justice, on good cause shown by the State or the accused.

Court may recognize prisoner and witnesses.

SEC. 2. If said court shall adjudge said prisoner ought to be held to bail, it shall recognize him or her in such sum and with such security as he shall deem sufficient, conditioned for the appearance of such person at the next term of the court of common pleas, in said county, or to such court as shall have jurisdiction in the trial of such cause; and in case such prisoner fails to give security, he or she shall be remanded to jail; and in all cases where the prisoner is remanded or held to bail, the court shall recognize the witness or witnesses on the part of the State, to appear at the next court of common pleas, to be holden in and for the county where such prisoner is to be tried, or in such court as shall have jurisdiction in the trial of such cause.

Prisoner failing to give security, duty of the court.

SEC. 3. The examining court, if the prisoner fails to give security, shall order the clerk to enter on the journal of the court of common pleas, in what sum and with what securities he or she may be recognized; and at any time thereafter, upon the prisoner's giving such security as required by the examining court, any judge of the supreme court, court of common pleas, or the probate judge of the proper county, may discharge him or her.

In case prisoner is recognized.

SEC. 4. In all cases where a single judge or examining court may recognize a prisoner under the provisions of this act, he shall forthwith deposit with the clerk of the court of common pleas, in said county, the recognizance so taken, also a warrant directed to the jailor, requiring him to discharge the prisoner.

What proceedings may be had relative to persons in jail charged with bailable offences

SEC. 5. When any person charged with the commission of any bailable offence, shall be confined in jail, whether committed by warrant under the hand and seal of any judge or justice of the peace, or by the sheriff or coroner, under any capias, upon indictment found, it shall be lawful for any judge of the supreme court, judge of the common pleas within his district, or probate judge within his county, to admit such person to bail, by recognizing such person in such sum, and with such securities, as to such judge shall seem proper, conditioned for his or her appearance before the proper court, to answer the offence wherewith he or she may be charged; and for taking such bail, the said judge may, by his special warrant, under his hand and seal, require the sheriff or jailor, to bring such accused before him at the court house of the proper county, at such time as in such warrant the judge may direct; Provided, that in fixing the amount of bail, the judge admitting to the same, shall be governed in the amount and quality of bail required, by the directions of the court of common pleas, in all

cases where said court of common pleas shall have made any order or direction in that behalf.

Judges of Criminal Courts, and Probate Judges, to have concurrent jurisdiction.

SEC. 6. The judge of the court of criminal jurisdiction in each county in this State, where such court is now or may hereafter be established, shall have concurrent jurisdiction with the probate judge of such county, in all matters wherein, by this act, jurisdiction is conferred on such probate judge.

Repealed.

SEC. 7. The first, second, third, fourth and twentieth sections of the act directing the mode of trial in criminal cases, passed March seventh, eighteen hundred and thirty-one, be, and the same are hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

March 12, 1852.

An ACT

To repeal the fifty-seventh section of an act directing the mode of proceeding in chancery, passed March fourteenth, one thousand eight hundred and thirty-one, and to direct the manner of, and terms upon which decrees may be opened in causes where the same have been rendered against parties without actual notice.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That parties against whom a decree in chancery has been rendered, without other notice than the publication in the newspaper, as provided for in the act directing the mode of proceeding in chancery, may, at any time within five years after the date of the decree, have said decree opened, and be permitted to come in and defend, and have a hearing of the cause, the same as if no decree had been rendered therein; but before the decree shall be opened, the applicant or applicants shall give notice in writing to the original complainant, or his representatives, of the intention to make such application, and shall file a full answer to the original bill, make an affidavit, that during the pendency of said suit, he or she, as the case may be, received no actual notice thereof, in time to appear in court, and to object to said decree; and the court before which such application may be made, shall, before ordering said decree to be opened, make such order as to the costs, as may, under the circumstances, seem just and equitable; Provided, that the title to any real or personal estate, the subject of the former decree which by it, or in consequence of it, shall have passed into the hands of a bona fide purchaser, shall not be affected by any proceedings under this act.

SEC. 2. That the fifty-seventh section of the act directing the mode of proceeding in chancery, passed March fourteenth, one thousand eight hundred and thirty-one, be, and the same is hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

March 24, 1852.

AN ACT

Authorizing the Courts of Justice to change the venue in suits wherein a Corporation is a party, in certain cases.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That in any suit wherein a corporation, having more than fifty stockholders, is a party, if the opposite party, plaintiff or defendant, as the case may be, shall make affidavit that he cannot have a fair and impartial trial in the county in which such corporation keeps its principal office, or transacts its principal business, as he verily believes, and if his application shall be sustained by the several affidavits to the same effect, of five credible persons, residing in such county, it shall be the duty of the court to change the venue to some adjoining county, most convenient for both parties; whereupon the suit shall be tried or heard in the same manner as if it had been originally commenced in such adjoining county.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 24, 1852.

AN ACT

To Regulate the Superior and Commercial Court of Cincinnati.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever the office of Judge of the Superior or Commercial Court of Cincinnati, shall become vacant, by death, resignation, or otherwise, such vacancy shall not be filled, but the court shall at once cease and determine, and all business thereof, not then disposed of, shall be transferred to the

court of Common Pleas of Hamilton County, and the clerk of the said court of Common Pleas shall take charge of the dockets, journals, records, original files, and all other property and papers of said Superior or Commercial Court; and all proceedings, causes, orders, judgments, decrees, and matters theretofore pending, entered and had in the said Superior and Commercial Courts, shall stand, be proceeded upon, and prosecuted, in all respects, to final determination, as though the same had been originally commenced in the Court of Common Pleas.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 24, 1852.

AN ACT

To attach the County of Noble to the first subdivision of the Eighth Common Pleas District.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the County of Noble be, and hereby is attached to, and with the counties of Muskingum and Morgan, shall constitute the first subdivision of the eighth common pleas district, for judicial purposes.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 24, 1852.

STANFORD LIBRARY

AN ACT

Fixing the time of holding the District Court in the County of Noble.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the District Court shall hereafter be held in and for the County of Noble, on the twenty-eighth day of August.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 24, 1852.

AN ACT

Further prescribing the powers and duties of the courts of this State, and the judges thereof, and to repeal the eighteenth section of the act "relating to the organization of courts of justice, and their powers and duties," passed February nineteenth, one thousand eight hundred and fifty-two.

What process and remedies may be had and resorted to.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That all process and remedies authorized by the laws of this State, when the present constitution took effect, may be had and resorted to in the courts of the proper jurisdiction, under the present constitution; and all the laws regulating the practice of, and imposing duties on, or granting powers to the supreme court, or any judge thereof, and the courts of common pleas, or any judge thereof, respectively, under the former constitution, except as to matters of probate jurisdiction, in force when the present constitution took effect, shall govern the practice of, and impose like duties upon the district courts and courts of common pleas, and the judges thereof respectively, created by the present constitution, so far as such process, remedies and laws, shall be applicable to said courts respectively, and to the judges thereof, and not inconsistent with the laws passed since the present constitution took effect.

Judge of Com. Pleas to be Presiding Judge in his subdivision.

SEC. 2. Each judge of the court of common pleas, shall, in his subdivision, be the presiding judge of said court, and when any person or persons shall be convicted of any crime or offence, and the court of common pleas or criminal court of any county, shall have signed and sealed a bill of exceptions to any decision or charge of said court, such court may, on the application of the person or persons so convicted, suspend the execution of the sentence or judgment, against such person or persons, until the next term of such court; Provided, that if it shall be made to appear at the next term of said court, that a writ of error has been allowed in any such case, and no hearing on such writ shall have been had, it shall be the duty of said court, on application made for that purpose, further to suspend such execution, until the hearing of the cause on such writ of error.

Bill of exceptions, suspension of execution, and writ of error.

Books, stationery, &c., for Supreme Court, furnished by Secretary of State.

SEC. 3. All books, stationery, and other articles for the use of the Supreme Court, shall be furnished by the Secretary of State, on the order of the court; and no bill for any such articles shall be allowed or paid, unless furnished in accordance with the provisions of this act.

Repealing clause.

SEC. 4. That the eighteenth section of the "act relating to the organization of courts of justice and their powers and duties," passed February nineteenth, one thousand eight hundred and fifty-two, be and the same is hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 30, 1852.

AN ACT

Further to regulate the practice and provide for the jurisdiction of the Criminal Court of Hamilton county, to direct the transfer of certain business now remaining in the Court of Common Pleas for the first district, from the last named court into that first named.

Transfer of recognizances.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That all recognizances taken or continued so as to require the appearance of the accused at the May term, in the year eighteen hundred and fifty-two, be removed out of said court of Common Pleas for the first district, into the said "The Criminal Court of Hamilton county," to be there tried and adjudged as though commenced by indictment or otherwise, originated in the said "the Criminal Court of Hamilton county," and to be in all respects subject to all powers and jurisdiction whatsoever, vested by law in the court last named.

Same subject.

SEC. 2. That all recognizances be held by the clerk of the Court of Common Pleas without formal certificate, subject to the full power and entire jurisdiction of the said "the Criminal Court of Hamilton county," in the same manner as though the place of custody had been changed, and the said recognizances formally certified out of one court into the other.

Same subject.

SEC. 3. That all persons required by recognizances to appear before the Court of Common Pleas, for the first district, at the May term aforesaid, to answer any criminal matter, indictment or accusation, shall appear and answer the same in "the Criminal Court of Hamilton county," and shall be tried and otherwise made subject to order and judgment in the court last named.

Power of Criminal Court.

SEC. 4. That "the Criminal Court of Hamilton county" shall have the same power to forfeit and open cognizances (including the recognizances named in this act,) as has been vested by any existing law or laws in the Court of Common Pleas.

Punishment less than imprisonment in Penitentiary.

SEC. 5. That in case of petit larceny and other inferior offences, whereof the punishment is less than imprisonment in the penitentiary, no indictment by a grand jury being required, the said "the Criminal Court of Hamilton county" shall cause the prosecuting attorney to draw an information, setting forth briefly, but distinctly, the charge against the accused, on which charge such accused shall be tried, and be subject to judgment, unless the prosecuting attorney or his assistant, with leave of the court, shall otherwise direct.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 30, 1852.

AN ACT

To provide for the election, qualification and removal from office of the Clerks of the Courts of Common Pleas, and to prescribe the manner of filling vacancies in said office.

Election of Clerk.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That there shall be elected in each county in this State, by the qualified electors thereof, on the second Tuesday of October, in the year eighteen hundred and fifty-four, and triennially thereafter on said day, one Clerk of the Court of Common Pleas, who shall hold his office for three years, if he so long behave well, and until his successor shall be chosen and qualified.

Bond, oath, and security.

SECTION 2. That each of the Clerks of the Courts of Common Pleas, who were elected in this State on the second Tuesday of October, in the year eighteen hundred and fifty-one, or who shall hereafter be elected or appointed as hereinafter provided, shall, before entering upon the duties of his said office, take an oath or affirmation before some person qualified to administer such oath or affirmation, that he will truly and faithfully enter and record all orders, decrees, judgments and proceedings of the said Court of Common Pleas, and of such other court or courts of which he may be Clerk by virtue of his said office, which he may be by law required to enter and record, and faithfully and impartially discharge and perform all the duties of his said office, according to the best of his abilities and understanding; and each of said clerks shall also give bond, with sufficient sureties, to the State of Ohio, to be approved by the board of county commissioners of the county in which he shall have been elected or appointed, in the penal sum of not less than ten thousand and not more than forty thousand dollars, conditioned that he will truly and faithfully pay over all money that may be by him received in his official capacity, and that he will enter and record all the orders, decrees, judgments and proceedings of said courts, which he may by law be required to enter and record, and faithfully and impartially discharge and perform all the duties of his said office; which bond shall be lodged with the County Treasurer.

His duties

SECTION 3. That the said Clerks of the Courts of Common Pleas, shall, within their respective counties, do and perform all the duties which the Clerks of the Supreme Court and Courts of Common Pleas, are now by law required or authorized to do and perform, except so much of said duties relating to the said last named courts as may not be applicable to the several courts of which they may be the clerks, and shall be liable to the same penalties and forfeitures that said last named clerks are now by law liable to for misfeasance in office, and shall receive the same fees and emoluments for the performance of the said duties, as are now allowed by law for the same.

Deputy.

SEC. 4. That said clerks may each appoint one or more deputies, to be approved by their respective courts; and the appointment of every such deputy shall be evidenced by a certificate thereof, signed by his principal, and entered on the journal of the Court of Common Pleas, and shall continue during the pleasure of the principal; and every principal may take such bond and security from his deputy as he shall deem necessary, to secure the faithful discharge of the duties of his appointment; and the principal shall in all cases be answerable for the neglect of duty or misconduct in office of his deputy.

Oath.

SEC. 5. That every such deputy shall, previous to entering on the duties of his appointment, take an oath or affirmation faithfully to perform all the duties thereof, and when so qualified the deputy may do and perform any and all of the duties appertaining to the office of his principal.

Office, where kept.

SEC. 6. That each and every clerk of the respective courts shall keep his office at the seat of justice in his proper county and every clerk failing so to do, shall be deemed and taken to have resigned the same. And in case a vacancy shall happen in the office of clerk in any county in this State, by death, resignation, or otherwise, the commissioners of said county are hereby authorized to appoint a clerk pro tempore, who shall hold his office until the October election next ensuing such appointment, and until his successor shall be elected and qualified; provided said appointment shall have been made at least fifteen days prior to said October election; otherwise said clerk so appointed shall continue in office under and by virtue of his said appointment, until the October election to be held in the year next thereafter, and until his successor shall be elected and qualified. But if said commisioners shall fail to make said appointment within the time herein specified, then the Auditor of said county shall forthwith make such appointment.

Vacancy, how filled.

Same subject.

SEC. 7. That when from any cause a vacancy shall happen in said office of clerk, the Auditor of the proper county shall forthwith cause notice thereof to be given to the county commissioners, which notice shall require said commissioners on some day therein named, not to exceed ten days from the date of said notice, to meet at the office of the Auditor of said county, then and there to appoint a clerk; and the said commissioners shall, on the day so specified, or within five days thereafter, convene at the office of the auditor of said county, and appoint a suitable person to fill such vacancy.

Elections, Poll-Book, and abstract.

SEC. 8. That the election for clerks shall be held, and the poll books returned, in the same manner provided for the election and returns for Governor, and the abstracts therefrom, certified to the Secretary of State, shall be by him opened in the presence of the Governor, who shall declare the result, and issue commissions to the persons elected.

May be removed.

SEC. 9. That if any clerk of said courts shall fail to complete a full record of each case as required by law, within six months after final judgment or decree of the proper court therein, every such clerk so failing, may be removed by the Court of Common Pleas, unless good and sufficient cause shall be made to appear for such failure; and it shall be the duty of the said court to see that the provisions of this section are enforced.

Amount of bond fixed by whom.

SEC. 10. That the county commissioners of the several counties of this State are hereby required to meet at the office of the Auditor of their respective counties, on the second Monday of February, eighteen hundred and fifty-two, or as soon as practicable thereafter, for the purpose of fixing the amount of and accepting the bonds of the clerks elected in their respective counties, at the October election, eighteen hundred and fifty-one.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

January 31, 1852.

AN ACT

To prescribe the manner of applying for pardons.

Pardons, for whom application may be made.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That all pardons hereafter applied for on behalf of any person or persons convicted in any court of this State, of any crime punishable under the laws thereof, by imprisonment in the Penitentiary of the same, and sentenced to such imprisonment, or on behalf of any person or persons convicted of any crime, the punishment of which is capital under the laws of this State, and sentenced to such punishment, shall be made and conducted in the manner and under the restrictions hereinafter prescribed.

Notice of the application for pardons to be published.

SEC. 2. Notice of the application for such pardon shall be given to the Prosecuting Attorney of the county in which the indictment was found against such person or persons so convicted and sentenced, at least three weeks before such application shall be considered by the Governor of the State; a copy of which notice, acknowledged by such Prosecuting Attorney, or certified under oath of a credible witness, to be a true copy thereof, shall accompany every such application to the Governor; and a notice of such application setting forth the names of the person or persons on whose behalf it is made, the crime of which he, she or they shall have been convicted, the time of such conviction, and the term of sentence, shall also be published in some newspaper printed in

such county, and of general circulation therein; or if there be no newspaper published therein, then such notice shall be posted on the door of the court house of such county, at least three weeks before the Governor of the State shall consider any such application; a copy of which notice, duly authenticated by some credible witness under oath, shall also accompany such application; Provided, that in any case in which the application is for the pardon of any person sentenced to capital punishment, and the time from the date of the sentence to the time of the execution thereof is less than three weeks, that such notices shall only be required to be so served and published for ten days before the consideration of such application.

Duty of Prosecuting Attorney

SEC. 3. It is hereby made the duty of the Prosecuting Attorney of the county in which the indictment was found, against such person or persons on whose behalf such application for pardon is made, to make out and forward to the Governor, within ten days after the service of the notice upon him as hereinbefore provided, a statement setting forth the time of such trial and conviction, and the date and term of such sentence, and also the crime of which such person or persons were convicted; and he shall also briefly state any circumstances in aggravation or extenuation, if any such appeared in the testimony upon the trial of the person or persons in whose behalf such application is made.

In case there is danger of the death of any person imprisoned, what may be done.

SEC. 4. That in any and every case in which there is imminent danger of the death of any person or persons so convicted and imprisoned, which fact shall appear by the certificate of the physician of the Penitentiary, addressed to the Governor, which certificate may be accompanied by the recommendation of the Warden of the Penitentiary, for the pardon of such convict or convicts; and in every case in which the Warden of the Penitentiary, and the Directors thereof, shall unite in a recommendation to the Governor for the pardon of any such convict or convicts, stating specifically the considerations and reasons why such application is made, the provisions in the foregoing sections of this act shall not be considered applicable.

SEC. 5. That this act shall take effect on the first day of April, A. D. 1852.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
AARON PARDEE,
President pro tempore of the Senate.

January 28, 1852.

AN ACT

Limiting the powers of certain Municipal Corporations.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That wherever, by the charter of any incorporated town or city, in this State, containing more than twenty thousand inhabitants, authority is conferred upon the town or city council thereof, to alter the number or boundaries of the wards, or election districts therein, no such power shall be exercised prior to the passage of a General law, providing for the organization and government of such town or city.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
AARON PARDEE,
President pro tem. of the Senate.

March 1, 1852.

AN ACT

To provide for the appointment of the Register of Virginia Military district school lands.

Register, how appointed.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That from and after the passage of this act, the manner of appointing the Register of the Virginia Military district school land, provided for by the first section of an act entitled, "an act directing in what manner certain lands granted by Congress for the use of schools in the Virginia Military tract, shall be surveyed and disposed of, passed February 17, 1809," shall be by the Governor, by and with the advice and consent of the Senate; which Register, when so appointed, shall hold his office for the term of two years, and until his successor shall be appointed and qualified; and shall be governed in all respects by the laws now in force regulating the management and sale of said land, and be liable to all the restrictions, and subject to all the penalties, now in force upon that subject.

Term of office.

Vacancy, how filled.

SEC. 2. Should a vacancy happen in said office of Register, by death, resignation, or otherwise, during the recess of the General Assembly, it shall be the duty of the Governor to appoint some person to fill such vacancy, which appointment shall not extend beyond the adjournment of the next General Assembly thereafter.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
AARON PARDEE,
President of the Senate pro tempore.

February 22, 1852.

AN ACT

To cede to the United States the jurisdiction of Green Island, in Lake Erie, and in the county of Ottawa, for the site of a Light House.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the jurisdiction of Green Island, in Lake Erie, and lying in the county of Ottawa, and in the State of Ohio, purchased by the United States of America for the purpose of erecting a light house thereon, and containing thirty-two acres of land, be, and the same is hereby ceded to the United States for the use and purpose of a Light House; Provided, that the jurisdiction so ceded shall not extend so as to impede or prevent the execution of any process of law, under the authority of this State, except so far as it may affect any of the real or personal property of the United States on said Island; and the same shall be and remain exempt from taxation, so long as it continues the property of the United States.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
W. MEDILL,
President of the Senate.

January 19, 1852.

AN ACT

Defining the powers and prescribing the duties of the Board of Public Works.

Term of office, when to commence.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the term of office of the members of the board of Public Works, elected on the second Tuesday of October last, shall commence on the sixteenth day of February, one thousand eight hundred and fifty-two; and said members shall hold their offices, respectively, until their successors shall be elected and qualified; and the term of office of the member of the said board, who shall be elected hereafter, annually, shall commence on the sixteenth day of February, next after such election.

Oath or affirmation, and bond.

SEC. 2. The members of said board shall each take an oath or affirmation, to support the constitution of the United States and of the State of Ohio, and honestly and impartially to discharge the duties of the office; and shall also give bond, with good and sufficient security, to be approved by the Governor, in the penal sum of not less than thirty thousand dollars, conditioned for the faithful and honest discharge of the duties of his office, and for the faithful paying over of all money which may come into his hands, according to law, which bonds, with the approval of the Governor endorsed thereon, shall be filed with the treasurer of state.

President of Board.

SEC. 3. The members of the said board shall designate one of their number to act as president of said board, who, in addition to his duties as acting commissioner, shall perform such duties as are, or shall be, required by law of the president of the said board.

Public works to be divided into three districts.

SEC. 4. That said board shall divide the public works of this State, as near equally as they may deem practicable, into three districts, which districts may be designated by such name as the board shall deem proper; and the commissioners shall each take charge of such one of said districts as may be assigned to him by said board, and be responsible for the due and faithful administration of the affairs of the district under his particular charge.

Payments by acting commissioners, how made.

SEC. 5. That payments of every kind and description, made by either of said acting commissioners, shall be by check drawn to the order of the payee, on the treasurer of state, and not otherwise; and whenever payment is intended to be made for any work performed, or materials for the same found, in constructing or making repairs, whether the same be by contract, or by any superintendent or agent of said board, the check of the commissioners shall be accompanied with a certificate of the superintending engineer, which certificate shall name the person or persons to whom there is indebtedness, with a statement of the particular work, whether by contract or otherwise, and the value thereof; the check and certificate shall be registered in books, one to be kept by the engineers, and one to be kept by the commissioners, and the fact of the check being registered by the engineer, shall, in all cases, be endorsed on the back of the check, and signed by him officially: nor shall any greater sum be placed in the state treasury subject to the unrestricted check of either of said acting commissioners, in any one year, than shall be necessary to pay the salaries of engineers and assistants, and other ordinary incidental expenses; nor shall the amount at any one time so placed to the credit of either of said acting commissioners, exceed five thousand dollars, which sum shall be fully accounted for by said commissioners, to the board, before a new requisition shall be made.

Limit of their unrestricted check.

Collectors of canal tolls—their term of office & duty—may be removed.

SEC. 6. Collectors of canal tolls shall be appointed for such term as the board of public works shall deem expedient, not exceeding three years; but any collector shall be subject to be removed at any time during the term for which he shall have been appointed, for malfeasance in office, or for neglect of duty, whenever the acting commissioner having charge of that part of the canal on which the office of such collector is situated, shall believe the public interest requires such removal, or when the provisions of the law shall require the same; such collectors shall, in addition to their duties as collectors of tolls, collect all water rents due the State, or hereafter to become due, and

make return of such collections, and pay over moneys thus collected, in the same manner and at the same time they are by law required to make return of, and pay over, the tolls by them collected; and it is hereby made the duty of the auditor of state to furnish to each collector copies of all leases for water power, on which such collector is required to collect rents, with a statement showing the amount due, and all other matters necessary to enable such collector to make such collections; and such collectors shall receive for such services such per centage on the amount collected as shall be determined by the said board.

Auditor of State to furnish collectors with copies of leases for water rent.

SEC. 7. In case of the removal of any collector, as provided in the preceding section, the member of the board by whom such removal shall have been made, may appoint some other suitable person to such vacant office, who shall hold such appointment until the end of the next meeting of the board, unless removed, as hereinbefore provided.

Removal of collectors.

SEC. 8. The board of public works shall fix the salaries of the resident engineers appointed by said board. The appointment of the resident engineers by said board shall be for such term as said board shall deem expedient, not exceeding three years; which said resident engineer shall be subject to removal at any time during the term for which he shall have been appointed, for malfeasance in office, or for neglect of duty, whenever the acting commissioner having charge of that portion of the public works upon which said engineer is appointed, shall believe the public interest requires such removal, or when the provisions of the law shall require the same. They shall have power, and are hereby authorized to compromise with persons owing water rents to the State, in all cases when in the opinion of said board the whole amount due cannot be collected.

Resident engineers, their appointment, term of office, and removal.

SEC. 9. The board of public works are hereby authorized and required to make an examination of the leases of water-power upon or connected with any of the public works of this State, made by any of the lawful agents of this State, in cases where the lessees of said water power, or any assignee thereof, may require it, and to adjust and fix the rents in arrear or to be paid by such lessees or assigns, at such prices as they may deem just and equitable, and to cancel existing leases with the consent of the lessees or assigns, or when forfeited, where they shall deem the interest of the State will be promoted thereby, and to shut off the water and prevent the use thereof under any lease, when rent due upon said lease shall be in arrear for thirty days, or when the lessee or assigns refuse or neglect to put in, or permit to be put in, guages, as required in their leases, and to keep the water shut off until such rent be paid, and said guages put in.

Duties of Board in reference to leases of water power.

May enter upon and take possession of land, &c., for use of public works.

SEC. 10. That it shall and may be lawful for said board of public works, and each member thereof, by themselves, and by any and every superintendent, agent and engineer employed by them, to enter upon and take possession of and use, all and singular, any lands, waters, streams, and materials necessary for protecting and keeping in repair the public works under the charge of said board, and to make all such feeders, dykes, reservoirs, locks, dams, and other works and devices as they may think proper, for perfecting and keeping in repair the public works under their charge, doing, nevertheless, no unnecessary damage.

When private property is taken for public use without agreement on the price, what proceedings shall be had.

SEC. 11. In all cases when property shall be taken as provided in the preceding section of this act, and when the board, or the acting member thereof, and the owner of such property, cannot agree upon the price to be paid for the same, the board of public works, or any member thereof, shall deliver to the owner of such property, or to his guardian, if such owner be a minor, idiot or insane person, a description of the property intended to be appropriated, or which, in case of public exigency, has been previously appropriated, stating in such notice the time when the value of such property will be assessed, and file a copy thereof with the clerk of the court of common pleas of the county wherein such property, or any part thereof, shall be situated; and shall deposit with the treasurer of state, such sum of money as the member having charge of such division shall deem such property worth, taking duplicate certificates thereof, one of which shall be deposited with the clerk of said court, and the other retained by said member, which sum, so deposited, shall be kept by said treasurer until the determination of said suit. If, however, the owner of such property shall, at any time previous to the trial of said case, signify his willingness to accept the amount so deposited, in satisfaction of such damages, said member shall pay to such owner said amount of money, and the fee simple of such property shall thereafter be vested in the State of Ohio. If the owner, or his or her guardian, be unknown, or reside without the State of Ohio, the board of public works shall publish in some newspaper of general circulation in said county, for the term of thirty days, a notice, the same as that filed with said clerk, and stating the intention of said board, to appropriate said property, or that such property has been appropriated, as the case may be. Upon filing such description, and delivering such copy, or making such publication, the said clerk, on the application of said board, or any member thereof, shall, with the sheriff of said county, proceed to select a jury of five persons, in the same manner that petit jurors are now selected in the court of common pleas, and shall immediately issue his venire, directed to the sheriff of his county, to the jurors so selected, commanding them, on the day to be specified in the notice aforesaid, to appear, and on personal view to examine and determine the

value of such property, so seized or intended to be seized as aforesaid.

Same subject.

SEC. 12. Before entering upon the duties of their appointment, the said jurors shall, severally, take an oath or affirmation, before some person qualified to administer oaths, faithfully and impartially to perform the duties required of them by this act; and it shall be the duty of said jurors, or a majority of them, to make a just and equitable estimate and appraisal, of the loss or damages; and the said jurors, or a majority of them, shall make regular entries of their determination and appraisal, with an assessment and sufficient description of the property appropriated for the purposes aforesaid, in a book or books, to be provided and kept by the board of public works for that purpose, and certify and sign their names to such entries and appraisals. The said jurors shall examine under oath, any witnesses who may be offered by the parties in the case, and may have power to examine under oath, any witnesses they may deem necessary to a full understanding of their duties; and either party may appeal from the decision of such jury to the court of common pleas of the proper county, on giving notice to the opposite party, and filing with said clerk a bond, with sufficient security, to be approved by said clerk, conditioned for the payment of costs in the court of common pleas; said bond and notice to be filed within twenty days after said jury shall have rendered and recorded their verdict; and trial shall be had in said court of common pleas at the first term after filing said bond with the clerk, if the same shall be filed thirty days before the sitting of the said court, unless, for good cause shown by either party, said cause shall be continued. If the said applicant for damages, appeal and recover no more in the common pleas than before said jury, he shall pay all costs accruing in said court; and if he recover before the jury first summoned, no larger amount than that tendered or deposited by said board, as required by said act, he shall likewise pay all costs.

Board shall pay all damages assessed, and may draw upon the State Treasurer for money for that purpose.

SEC. 13. The said board of public works shall pay all damages finally assessed for property taken as aforesaid; and the fee simple of the premises so appropriated shall be vested in the State of Ohio; but if, in the opinion of the said board, the damages assessed on property not previously appropriated, shall be too high to justify its appropriation for the benefit of the State, they shall have the right to pay the costs which have accrued, and refuse to appropriate the same; and the said board of public works, or the acting member thereof on whose division such damages are awarded, is hereby authorized to make drafts on the Treasurer of State, for all moneys necessary to enable said board to make such deposits, and pay such damages, as are provided for by this act, to be paid out of any money in the treasury appropriated for canal purposes. The said draft or drafts shall be accompanied with a full statement of the matter

for which said money is wanted, and a copy of such statement shall be kept by such member of the board of public works, in a book to be by him kept for that purpose.

Fees.

SEC. 14. The witnesses, clerk and sheriff, for the services required of them by this act, shall receive such fees as they are paid for like services in similar cases; and the jurors so selected as aforesaid, shall receive for the services required by this act, the sum of one dollar per day while engaged in such service; the attendance of witnesses before any such jury, shall be certified by them to the clerk who issued the venire in such causes; and it shall be the duty of the clerk to replace the names of such jurors as have been selected under the provisions of this act, so that they may stand in the same manner for service as jurors in the common pleas, as if they had not been drawn for the special service required by this act.

Jurors' names to be replaced.

Right to challenge jurors.

SEC. 15. Either party shall have a right to challenge jurors for cause, and the panel shall be filled by the sheriff with talesmen as in other cases.

Notice of the letting of all contracts, by the Board, to be given.

SEC. 16. That in all cases in which it may be necessary for the said Board of Public Works, by themselves or legally authorized agents, to let contracts for the performance of labor or the furnishing of materials, and for the construction of feeders, dykes, reservoirs, locks, dams, and other works and devices for perfecting and keeping in repair the public works under their charge, it shall be the duty of the acting member of the said Board, by the resident engineer having charge of the division of the public works upon which said labor is to be performed, or materials furnished, to cause such general notice of the letting of said contracts, by publication in newspapers, and posting up advertisements, as will secure fair and general competition; which said notice shall contain a statement of the time, place and manner of receiving proposals for said contracts, and the character and magnitude of the work to be performed, the materials to be furnished, or both, if required, for the construction of the proposed work.

Board may lease water power.

SEC. 17. That the said Board of Public Works is hereby authorized to lease water power on the several reservoirs of the public works, under such rules and regulations as are or may be prescribed by law for leasing water power on the public works of the State.

Office of the Board to be kept at Columbus.

SEC. 18. That said board shall keep an office at the city of Columbus, under the charge of the president of said board, who shall take charge of the records, books and papers connected with the department of the public works, take charge of all correspondence of the said board, and do and perform such other duties as may be prescribed by the said board, or by law.

Repealing clause.

SEC. 19. The first, second, and third sections of the act to amend an act entitled an act to abolish the board of canal commissioners, and to revive the board of public works, passed March fifth, one thousand eight hundred and thirty-nine, and the several acts supplemental and amendatory thereto, and

for the better regulation of those having in charge the public works of this State, passed March sixth, one thousand eight hundred and forty-five; the fifty-ninth and sixtieth sections of the act entitled an act to provide for the protection of the canals of the State of Ohio, the regulation of the navigation thereof, and for the collection of tolls, passed and took effect March twenty-third, one thousand eight hundred and forty, be, and they are hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
AARON PARDEE,
President of the Senate pro tempore.

February 28, 1852.

AN ACT

Providing for the appointment of Commissioners, prescribing their terms of office, compensation, and mode of filling vacancies in said commission, in pursuance of the fourteenth article of the Constitution.

Governor to appoint three commissioners on practice and pleadings.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the Governor of this State be, and he is hereby authorized and required, by and with the advice and consent of the Senate, to appoint three commissioners, to be styled commissioners on practice and pleadings, to perform the duties herein specified; and it shall be the duty of the said commissioners to revise, reform, simplify, and abridge the practice, pleading, forms and proceedings of the courts of record of this State, and as far as practicable and expedient, shall provide for the abolition of the distinct forms of action at law now in use, and for the administration of justice by a uniform mode of proceeding, without reference to any distinction between law and equity.

Their duties.

Commissioners to meet at the city of Columbus.

SEC. 2. Said commissioners shall meet at the city of Columbus, on the first Monday of March, one thousand eight hundred and fifty-two, or as soon thereafter as practicable, and proceed to organize, and enter upon the discharge of the duties enjoined upon them by this act.

Term of office and report of proceedings.

SEC. 3. The term of office of said commissioners shall continue until the first Monday of March, one thousand eight hundred and fifty-three, unless they shall be sooner discharged by a joint resolution of the General Assembly; and said commissioners shall, from time to time, report to the General Assembly their proceedings under their said appointment.

Salary.

SEC. 4. Each of said commissioners shall be allowed at the rate of eighteen hundred dollars a year, for the time during which he shall be employed in performing his duties as such

commissioner, to be paid by the Treasurer of State, on a warrant of the Auditor, out of moneys to be appropriated for that purpose.

Vacancy.

SEC. 5. If any vacancy shall occur, by the death, removal, resignation or refusal to serve of any of said commissioners, during the recess of the General Assembly, the same shall be filed, by appointment by the Governor.

Clerk, his compensation.

SEC. 6. Said commissioners shall have power to employ a Clerk, to be paid out of the State Treasury, on the warrant of the Auditor of State, the amount due being certified to the Auditor of State by the said commissioners, the compensation of said Clerk to be three dollars per day, for the time actually employed in the discharge of his duties.

SEC. 7. Said commissioners shall, at all times, make reports of their proceedings, to the General Assembly, when called upon so to do, by joint resolution thereof.

Commissioners to have free access to State Library and public records, and may require information of clerks of courts.

SEC. 8. Said commissioners shall have free access to the State Library, and to any and all public records of the State, and be permitted to examine the same free of charge; and they may require of the Clerks of the several courts of record of this State, any information relating to the business of said courts, which said commissioners may deem useful, in the discharge of their duties; for which said Clerks shall receive such fees, to be paid by the Treasurer of State, on the warrant of the Auditor, as may be allowed by the Auditor and Secretary of State.

Stationery.

SEC. 9. The Secretary of State shall furnish the said commissioners with such stationery, as may be necessary for them in the discharge of their duties.

Oath, and removal.

SEC. 10. Said commissioners shall, before entering upon their duties, take the constitutional oath of office; and they may be removed before the expiration of their term, by a concurrent resolution of both branches of the General Assembly, for cause or causes, to be specified in such resolution.

Report.

SEC. 11. When such commissioners shall be prepared to make up a report in whole or in part, they shall give notice to the Governor, who is hereby authorized to cause the same to be printed, under the direction of said commissioners; and they shall furnish to each member of the General Assembly a copy of such report. Said commissioners shall have their final report made up and printed, on or before the first day of November, one thousand eight hundred and fifty-two, and earlier if practicable; and if the General Assembly be not in session at the time any such report may be so prepared and printed, it shall be the duty of the Secretary of State to forward one copy of any report or reports so printed, to each member of the present, and those elect, of the General Assembly which may next be in session, one copy to each Judge of the different courts of the State, and one copy to each Clerk of every court of record; and he shall reserve a sufficient number of copies for the use of the General Assembly, when in session.

Same subject.

SEC. 12. If from any sufficient cause or causes, the work of said commissioners shall not be completed on or before the first Monday of November, one thousand eight hundred and fifty-two, they shall make a full report to the General Assembly, if in session, and if not, to the Governor, of the progress already made in said work, and of the cause or causes which prevented its completion; and the General Assembly, if in session, shall thereupon take said report into consideration, and may allow such further time as may be deemed necessary for its completion; and if the General Assembly be not in session, the Governor, by and with the advice and consent of other officers of the executive department, or a majority of them, shall be and is hereby authorized to allow said commissioners such further time as may be deemed necessary for the completion of the work as aforesaid.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

March 4, 1852.

AN ACT

Fixing the compensation of members of the General Assembly.

$4 per diem.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That each member of the General Assembly of this State, shall be entitled, during the present or any succeeding session, to receive for each day's attendance during the session of the General Assembly, the sum of four dollars, and also four dollars for every twenty-five miles distance by the most direct route of public travel from his place of residence, in traveling to and returning from the seat of the General Assembly; Provided, that no route on which there shall not be some mode of public conveyance for travelers or passengers, shall be considered as a public traveled route.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

March 3, 1852.

AN ACT

Regulating the Office of County Auditors.

County Auditor failing to make settlement, &c. suit to be instituted against him by commissioners.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That if any County Auditor shall fail to make settlement, or fail to pay over all moneys with which he may stand charged, at the time and in the manner prescribed by law, or shall misapply any money which may come into his possession in the discharge of his official duties, it shall be the duty of the county commissioners to cause suit to be instituted against such Auditor, and his sureties, in the court of common pleas of the said county, or other court having jurisdiction of such cases.

Auditor may be removed, when suit commenced

SEC. 2. That whenever suit shall have been commenced against any delinquent county Auditor in manner as aforesaid, the commissioners of such county may, at their discretion, remove such auditor from office, and appoint some person to fill the vacancy thereby created, as heretofore by law provided.

Bond.

SEC. 3. That each County Auditor, previous to entering upon the duties of his office, shall give bond, with two or more sureties, to the acceptance of the commissioners of the county, in such penal sum, not less than two thousand dollars, nor more than twenty thousand dollars, as the said commissioners may require, payable to the State of Ohio, and conditioned for the faithful discharge of the duties of his office; and shall also take and subscribe an oath or affirmation, to be endorsed upon the said bond, that he will faithfully and impartially discharge the duties of his office, to the best of his skill and ability; which bond, so endorsed, shall be deposited with the county Treasurer, and be by him carefully preserved.

Repealing clause.

SEC. 4. That as to all county Auditors hereafter elected or appointed, the provisions of the second section of the act prescribing the duties of county Auditors, passed the twenty-third day of March, in the year eighteen hundred and forty, is hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

March 12, 1852.

AN ACT

Regulating the fees of Witnesses in Civil and Criminal Cases.

Fees and mileage of witnesses in civil cases and coroner's inquest.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That witnesses in civil cases shall hereafter be allowed the following fees: For each day's attendance at the court of common pleas or other court of record, or before any officer authorized to take depositions under a subpœna, to be paid by the party at whose instance he or she is summoned, (on demand,) and taxed in the bill of cost, seventy-five cents, and five cents per mile, from his or her place of residence to the place of holding said court or place of taking depositions. For attending a coroner's inquest, seventy-five cents per day, and the mileage aforesaid, to be paid out of the county treasury. For attending at any trial before a justice of the peace or mayor of any incorporated city or town, to be paid for as is provided in this act in the courts of record, the sum of fifty cents per day, and the mileage aforesaid; Provided, that no mileage shall be allowed in any case where the distance from the place of the residence of the witness to the place where he is called to testify, is less than three miles.

In criminal cases.

SEC. 2. That witnesses attending under recognizance, or subpœna issued by order of the prosecuting attorney, or defendant, before the court of common pleas, or other court of record, in criminal cases, shall be allowed the following fees: For each day's attendance, seventy-five cents, and five cents per mile, as in civil cases; to be taxed in only one case, when attending in more cases than one, on the same days, unless otherwise directed by the special order of the court.

In cases not mentioned in this act.

SEC. 3. That in all cases, except those specified in this act, each person summoned as a witness, shall be allowed the sum of fifty cents per day for each day's attendance, and the mileage specified in this act; and all persons who shall be called upon to testify in a cause in which they are not summoned, shall receive the sum of twenty-five cents, to be paid as provided in this act.

Number of miles to be endorsed upon the subpœna.

SEC. 4. That for the purpose of ascertaining the mileage to which any witness may be entitled, it is hereby made the duty of the sheriff, or other officer serving a writ of subpœna, to endorse on the writ the number of miles to which each witness may be entitled; and all judicial officers returning witnesses under recognizance to any court in this State, for the trial of criminal causes, shall endorse on their transcript, the number of miles to which each witness may be entitled. The act heretofore passed, regulating the fees of witnesses in civil and criminal cases, and the act amendatory thereto, passed March 17th, 1838, is hereby repealed.

Compensation of Physician for post mortem examination.

SEC. 5. That in all cases where a physician or surgeon shall make a post mortem examination, at the instance of the coroner or other officer, said physician or surgeon shall be allowed such compensation for his services, as the court of common pleas of the proper county may direct.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

March 16, 1852.

AN ACT

To provide for the more equitable distribution of the proceeds of the sale of lands and town lots forfeited to the State for the non-payment of taxes.

Duty of county Auditor and Treasurer.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the county Auditors shall apportion to their several funds, and pay over to the county Treasurers of the proper county, the amount of moneys received from the sale of lands and town lots forfeited to the State for the non-payment of taxes, after deducting the expenses of advertising, the amount due to the several funds for which said taxes were originally levied, and the county treasurers shall apply them accordingly, and shall receive two per centum on all moneys by him received, as provided in this section, and no more. The provisions of this act shall apply to all sales of all lands and town lots forfeited to the State, for the year of our Lord one thousand eight hundred and fifty-one; Provided, that if any county treasurer, prior to the passage of this act, shall have paid to the Treasurer of State a greater portion than would belong to the State by the provisions of this act, then, and in such case, it shall be the duty of the Auditor of State to issue an order on the Treasurer of State, in favor of the county treasurer so having paid over the amount to which said county may be entitled by the provisions of this act, and the money so refunded shall be distributed to the several funds to which it belonged by the original levy.

Treasurers' per centum.

Duty of Auditor of State.

SEC. 2. The first section of the act entitled an act to amend an act entitled an act for the redemption of lands and town lots sold for taxes, and passed March 10th, A. D. 1839, be and the same is hereby repealed. Repealing clause.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

February 11, 1852.

AN ACT

Providing for the appointment of Notaries Public, and prescribing their duties.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the Governor be, and he is hereby authorized to appoint and commission as notaries public, as many citizens of this State, having the qualifications of electors, residing in the several counties in this State, as he may deem necessary; Provided, that before making any such appointment, each applicant shall produce to the Governor, a certificate from one of the judges of the court of common pleas in the county or district in which such applicant may reside, that the applicant is of good moral character, that he is a resident elector of such county, and that he possesses sufficient qualifications and ability to discharge the duties of the office of notary public. Governor authorized to appoint. Applicant must produce a certificate of moral character from Common Pleas Judge.

SEC. 2. That each notary public, so appointed and commissioned, shall hold his office for the term of three years, if so long he behave well; and that before entering upon the duties of his office, he shall give bond to the State of Ohio, in the sum of fifteen hundred dollars, with security to be approved by the governor, conditioned for the faithful discharge of the duties of his office, and he shall take and subscribe an oath or affirmation, to be endorsed on his commission, that he will support the constitution of the United States, and of this State, and that he will honestly, faithfully and impartially discharge and perform all the duties of his office, to the best of his ability. Term of office, bond and oath.

SEC. 3. That each notary public, before entering upon the duties of his office, shall provide himself with an official seal, with which he shall authenticate all his official acts, upon which seal shall be engraven the arms of this State, the words Official Seal.

Notarial Seal, and the name of the county in which he resides; which seal, together with his official registers, shall be exempt from execution; and on the death, or removal from office of such notary public, his registers shall be deposited in the office of the recorder of deeds, in the county where such notary resides.

Who shall not be appointed.

SEC. 4. That no banker, broker, or officer, attorney, stockholder, clerk or agent of any bank, banker, or broker, shall be appointed to, or shall hold the office of notary public in this State.

Powers of Notaries Public.

SEC. 5. That each notary public so appointed, commissioned and qualified shall have power, within the county in which he may reside, to administer all oaths required or authorized by law to be administered in this State, to take and certify depositions to be used in any of the courts of this State, to take and certify to all acknowledgments of deeds, mortgages, liens, powers of attorney, and other instruments of writing, and to receive, make and record, notarial protests.

Fees.

SEC. 6. That for each oath or affirmation administered and certified, the notary public shall receive twenty-five cents, and no more; for the presentment, demand, notice to drawers and endorsers, and instruments of protest of each bill of exchange or promissory note, he shall receive the sum of one dollar; and for recording each instrument by him required to be recorded, the sum of ten cents for each one hundred words, and no more; and for his services in taking and certifying acknowledgments of deeds, mortgages, liens, powers of attorney, and other instruments of writing, and for the taking and certifying of depositions, he shall receive the same fees as are now by law prescribed for justices of the peace; and in taking depositions, he shall have the same power to compel the attendance of witnesses, and to punish witnesses for refusing to testify, which is now vested, by law, in justices of the peace; and all sheriffs and constables in this State are hereby required to serve and return all process issued by such notaries in the taking of depositions.

May compel attendance of witnesses.

Duty of sheriffs and constables.

Protests to be received as evidence.

SEC. 7. That the instrument of protest of any notary public appointed and qualified under the laws of this State, or the laws of any other State or territory of the United States, accompanying any bill of exchange or promissory note, which has been protested by such notary for non-acceptance or for non-payment, shall be held and received in all the courts of this State, as *prima facie* evidence of the facts therein certified; Provided, that any party may contradict, by other evidence, any such certificate.

Penalty for receiving excess of fees, &c.

SEC. 8. That any notary public hereafter appointed, who shall charge or receive any fee or reward for any act or service done or rendered by him under this act, greater than the amount herein limited, or who shall dishonestly or unfaithfully

discharge any of his duties as notary public, shall, on complaint filed and substantiated in the court of common pleas in the county in which such notary public resides, be removed from his said office, by such court; and the court shall thereupon certify the fact of such removal to the governor, and the party so removed shall be thereafter ineligible to a re-appointment to the office of notary public in this State.

Acts repealed.

SEC. 9. That the act entitled an act for appointing notaries public, passed February seventh, one thousand eight hundred and sixteen, and all acts amendatory to said act, and all parts of all acts conflicting with this act, be and the same are hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.

WILLIAM MEDILL,
President of the Senate.

April 2, 1852.

AN ACT

To provide for the more efficient and expeditious completion of the New State House, and to repeal the act to provide for the erection of a New State House, passed February twenty-first, one thousand eight hundred and forty-six, and all amendments thereof.

Repeal of former acts.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the act entitled an act to provide for the erection of a New State House, passed February twenty-first, one thousand eight hundred and forty-six, and all amendments thereto, and all laws upon that subject, be and the same are hereby repealed.

Commissioners to be appointed by Governor & Senate.

SEC. 2. That there shall be appointed by the Governor of the State of Ohio, by and with the advice and consent of the Senate, three Commissioners, to be denominated the new State House commissioners, under whose direction the work upon the new state house in the city of Columbus, shall be continued and prosecuted, under the plan and specifications accompanying the report of the commissioners acting under joint resolution of the General Assembly, for the session of the years one thousand eight hundred and forty-three and one thousand eight hundred and forty-four; Provided, that said

New board may modify or change plan, &c

commissioners may adopt such modifications as have been made in said plan by their predecessors, and may also make such changes in the detail of said plan, during the progress of the work, as they may think proper; such changes and alterations not to increase the aggregate cost of the erection of said state house.

Term of office, and oath.

SEC. 3. The commissioners aforesaid shall hold their office for the term of two years, unless the said new state house shall be sooner completed. They shall take an oath or affirmation, to faithfully and diligently discharge the duties required by this act; and if any vacancy shall occur in said commission, the vacancy shall be filled by appointment, by the Governor.

Organization of new board, and duties.

SEC. 4. That it shall be the duty of the commissioners, so soon after their appointment as they may deem expedient, to elect from their own body a president and secretary. The president shall, when present, preside at all meetings of the board, and shall sign all official documents; the secretary shall keep a full and true record of all the proceedings, and an account of all money and labor appropriated and expended, an account of the expenses of each commissioner, the name and compensation of each agent by them employed, or under their control, the kind of service performed, the total amount expended during the last fiscal year, and, annually, by the fifteenth day of December, report the same to the Governor; and in addition to the foregoing, they are required to set forth in the said annual report, the total amount or cost of the said state house up to the time of making such report. And it shall be the duty of the Governor to lay the same before the next General Assembly in session. The treasurer shall take duplicate receipts, one of which shall be retained by him, and the other shall be deposited at the close of the fiscal year, with the auditor of State.

Further powers of the board.

SEC. 5. The said commissioners shall have power to appoint a superintendent, architect, clerk, and all other agents necessary for the successful prosecution of the work committed to their charge, who shall be paid a reasonable compensation for their services, out of the State House fund. The superintendent, architect, and all other agents, shall hold their appointment at the pleasure of the commissioners, a majority of the board concurring therein. The superintendent shall take an oath or affirmation to discharge the duties assigned him faithfully and diligently, and shall, under the direction of the commissioners, contract for and procure all the materials proper for the construction of the new state house; he shall, in like manner, contract for all labor and workmanship, necessary for the same, excepting such as may be furnished by the Ohio Penitentiary, under the provisions of this act; he shall superintend the erection of said work, and inspect all materials and workman-

Duties of superintendent.

ship, so as to secure to the State a building of durable and substantial character; he shall certify to all accounts for labor done, or for materials furnished, which accounts shall be countersigned by the secretary, and paid by the treasurer.

How moneys drawn.

SEC. 6. That all moneys in any way appropriated for this purpose, shall be drawn from the treasury by the warrant of the auditor of state, payable to the order of said commissioners, signed by the president and countersigned by the secretary, which money, so drawn, shall be deposited with the treasurer of state, who is hereby constituted treasurer of the state house fund.

In respect to convict labor.

SEC. 7. That it is hereby made the duty of the warden and directors of the Ohio Penitentiary, to place at the disposal of the commissioners of the new state house, all the convict labor of the prisoners that can be advantageously employed, and that can be spared from the ordinary work of the prison; which labor shall be appropriated as the commissioners may direct, but under the control and supervision of the warden of the penitentiary; and the said commissioners are hereby authorized and empowered to select from any new convicts, as they arrive at the penitentiary, such persons as in their opinion can be most advantageously to the interest of the State, employed upon the new state house, until its completion.

Stone.

SEC. 8. That all stone necessary for the completion of said state house, may be taken from the State quarries; and that the state rail road from said quarries to the city of Columbus, shall be free for the transportation of all material which may be required as aforesaid.

Commissioners to constitute a board.

SEC. 9. That said commissioners, a majority of whom shall always constitute a board capable of doing business, shall have full power to contract and be contracted with, which contracts shall be in the name of the board of commissioners, for the benefit of the state. That the said commissioners are required and directed to provide as soon as practicable, for the furnishing of two rooms in the new state house, for the purpose of holding the sessions of the General Assembly.

Rooms to be promptly furnished for General Assembly.

JAMES C. JOHNSON,

Speaker of the House of Representatives.

WILLIAM MEDILL,

President of the Senate.

March 18, 1852.

AN ACT

Authorizing Railroad Companies to change their gauge, or width of track, in certain cases.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That each Railroad company now existing, or that may be hereafter formed in this State, shall be required to make every railroad constructed or controlled by said company, of one uniform gauge or width of track from end to end. And whenever either of the roads aforesaid, shall connect with or cross any other road or roads, the companies owning or controlling each or either of said roads, may adopt such uniform gauge or width of track as will enable each of said companies to pass the same cars over each of said roads respectively.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

March 24, 1852.

AN ACT

To repeal the act entitled an act to levy a tax on the income of practising lawyers and physicians, passed February twenty-second, one thousand eight hundred and thirty.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the act entitled an act to levy a tax on the income of practising lawyers and physicians, passed February twenty-second, one thousand eight hundred and thirty, be, and the same is hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

March 18, 1852.

AN ACT

To amend the act entitled "an act to provide for the settlement of the estates of deceased persons," passed March 23d, 1840.

Doubtful claims against an estate to be referred to arbitrators.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That if the executor or administrator doubt the justice of any claim, presented or verified as provided for by section eighty-five, of "an act to provide for the settlement of the estates

of deceased persons, passed March 23d, 1840," he may enter into an agreement in writing, with the claimant, to refer the matter in controversy to three disinterested persons, who, if the claim does not exceed one hundred dollars, shall be approved of by a justice of the peace of the county in which the parties or either of them reside; or if the claim exceeds one hundred dollars, the referees shall be approved of by the probate judge of such county.

Section of former act repealed.

SEC. 2. That the eighty-sixth section of "an act to provide for the settlement of the estates of deceased persons, passed March 23d, 1840," which reads as follows: "If the executor or administrator doubt the justice of any claim presented or verified, he may enter into an agreement, in writing, with the claimant, to refer the matter in controversy to three disinterested persons, who, if the claim does not exceed one hundred dollars, shall be approved of by a justice of the peace of the county in which the parties, or either of them, reside; or if the claim exceed one hundred dollars, the referees shall be approved of by one of the associate judges of the court of common pleas of such county," be and the same is hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

March 19, 1852.

AN ACT

To extend the time in which administration may be granted in certain cases, and to repeal the 20th section of the act to provide for the settlement of the estates of deceased persons, passed March 23d, 1840.

Extension of time, when and how obtained.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio,* That administration shall not be originally granted as of right, after the expiration of twenty years from the death of the testator or intestate; Provided, nevertheless, that each Probate Judge shall have power, within his county, to grant letters of original administration upon the estate of any person heretofore deceased, or who may hereafter decease, as well after as before the expiration of the said period of twenty years, upon petition of the next of kin or other person or persons interested, or their agent, and on good cause shown for granting such letters as aforesaid; and the said Judge may, before allowing the prayer of any such petition, direct notice thereof to be

given, by publication, for a period not exceeding thirty days, in one or more of the newspapers printed in the county where such petition is filed.

Section of former act repealed.

SEC. 2. That the twentieth section of the act to provide for the settlement of the estates of deceased persons, passed the twenty-third day of March, in the year eighteen hundred and forty, be and the same is hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLAM MEDILL,
President of the Senate.

March 24, 1852.

AN ACT

To enable the Trustees of Colleges, Academies, Universities, and other institutions for the purpose of promoting education, to become bodies corporate.

Who may establish a college, university, &c.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That any number of persons, not less than five, desiring to establish a college, university, or other institution for the purpose of promoting education, religion, morality, agriculture, or the fine arts, may, by complying with the provisions of this act, become a body corporate and politic, with perpetual succession, and may assume a corporate name, by which they may sue and be sued, plead and be impleaded, in all courts of law and equity; may have a corporate seal, and the same alter or break at pleasure; may hold all kinds of estate, real, personal, or mixed, which they may acquire by purchase, donation, devise, or otherwise, necessary to accomplish the objects of the corporation, and the same to dispose of and convey at pleasure.

Value of corporate property, how ascertained.

SEC. 2. To ascertain the property and the value thereof of any institution desirous of becoming incorporated under the provisions of this act, it shall be the duty of the auditor of any county, in this State, on application in writing, of any number not less than five freeholders, resident of any county where such application may be made, and where such institution is, or is intended to be located, setting forth the object for which they desire to become incorporated, to select three judicious, disinterested freeholders of the county, and voters therein, who shall first take an oath for the faithful discharge

of their duties before some competent officer; and such appraisers shall then proceed to make a schedule, and upon actual view, to appraise the true value in money, of all such goods, chattels, lands and tenements, choses in action, rights, credits and subscriptions, as such applicants shall exhibit to such appraisers, and shall return such schedule, with their appraisement, and a certificate of some justice of the peace, or other officer authorized to administer oaths, that such appraisers were duly sworn by him to discharge their duties as such appraisers, to the auditor of the proper county, and if the amount so found shall be equal to the sum required for the commencement of any such institution as said applicants desire, such auditor shall give such applicants a certificate of the fact, and they shall enter it in a book of records, by them provided for that purpose, which, together with their corporate name and articles of association, they shall also cause to be recorded in the recorder's office of the county where such institution is, or is intended to be located; and they shall thenceforward be a body corporate and politic, according to the provisions of this act; and such auditor, appraiser and recorder, shall be entitled to the same fees as for like services in other cases, and no more.

Trustees and their duties.

SEC. 3. The corporators of any college or university which may be organized in accordance with the provisions of this act, may elect from among their number, five or more trustees, who shall constitute a board of directors for such institution, and they shall have power to fill vacancies that may occur in their board, and shall hold their offices until their successors are elected and qualified, according to the rules and by-laws that may be adopted by the board of directors; and when any such institution, in its corporate name, shall have acquired five hundred dollars in real and personal property, to be ascertained as herein provided, said trustees shall have power to appoint a president, professors, tutors and teachers, and any other necessary agents and officers of the board of trustees, and fix the compensation of each; and may enact such by-laws, not inconsistent with the laws of this state, or of the United States, for the government of the institution, and for conducting the affairs of the corporation, as they may deem necessary; and shall have power to confer, on the recommendation of the faculty, all such degrees and honors as are conferred by colleges and universities of the United States, and such others, having reference to the course of study, and the accomplishment of the students, as they may deem proper.

Failure to elect on day appointed not to dissolve corporation.

SEC. 4. In case it should happen that an election for directors should not be held on the day appointed by the by-laws of any institution or company formed under the provisions of this act, such corporations shall not for that reason be deemed

to be dissolved, but it shall be lawful on any other day, to hold a meeting and elect its directors, in such manner as shall be prescribed by the by laws thereof.

Trustees to hold property.

SEC. 5. The trustees of any university, college, or academy, may hold in trust any property devised, bequeathed or donated to such institutions, upon any specific trust consistent with the objects of said corporation.

Faculty, and their powers.

SEC. 6. The president and professors shall constitute the faculty of any literary college or university instituted under the provisions of this act, and have power to enforce the rules and regulations enacted by the trustees, for the government and discipline of the students, and to suspend and expel offenders, as may be deemed necessary.

Amount of capital requisite.

SEC. 7. When any number of persons shall have procured, by subscription, donation, devise, purchase or otherwise, the sum of five hundred dollars, for the purpose of establishing and sustaining an academy, such persons may adopt a corporate name, and enter the same in the recorder's office of the proper county, and proceed to the election of such officers and teachers as they may deem necessary, and in their corporate name may sue and be sued, plead and be impleaded, in any court of law or equity of competent jurisdiction, and may have a corporate seal, may purchase and hold personal or real estate, and dispose of the same at pleasure, and do all other acts and things necessary for the promotion of education and the general interests of such academy.

Old institutions may come under the provisions of this act.

SEC. 8. Any university, college, or academy, now instituted, may come under the provisions of this act by complying with the requisitions herein contained; and all such institutions now in existence, or that may hereafter be established, may connect therewith, to be used as a part of their course of education, any mechanical shops and machinery, or lands for agricultural purposes, not exceeding three hundred acres, to which may be attached all necessary buildings for carrying on the mechanical or agricultural operations of such institution.

Stock may be increased, when and how.

SEC. 9. Any company which may be formed in pursuance of this act, or which may now exist by virtue of any special act of incorporation, the property of which is held as stock, and not derived by donation, gift, devise, or gratuitous subscription, may increase its capital stock, or change it into scholarships, when it becomes necessary for the purpose of carrying out the object for which such company or corporation is formed, in the following manner: The directors for the time being shall make out and sign a certificate, in which shall be set forth the amount to which such capital stock is to be increased, and the object; which certificate shall be deposited in the office of the recorder of the proper county, and be by him recorded in the same manner as the articles of asso-

ciation and corporate name are by this act required to be recorded.

Notice of increase to be given.

SEC. 10. Before the capital stock of any such company shall be increased, it shall be the duty of the directors to publish a notice, signed by at least a majority of them, in a newspaper of general circulation in the county in which said institution is located, at least four consecutive weeks, appointing a time and place for holding a meeting of the stockholders of said company, specifying the object of such meeting, and the amount to which it is proposed to increase the capital stock thereof; and a vote of at least two-thirds of the shares of the stock represented at such meeting, shall be necessary to an increase of its capital stock, and to authorize the directors to make and sign the certificate mentioned in the preceding section.

Individual liability of stockholders.

SEC. 11. Any university, college or academy, that may become a body corporate, under the provisions of this act, the property of which is not derived by donation, gift, devise, or subscription, but is owned by individuals in the shape of stock subscribed or taken, the owner of said stock shall be individually liable for the debts of said corporation, to the amount of their said stock respectively; and also in a sum equal thereto, over and above the amount of their said stock; Provided, that the trustees or directors of any corporation organized under the provisions of this act, the property of which is not owned by individuals in the shape of stock subscribed or taken, but is held upon trust, or derived by devise, donation, gift or subscription, shall not contract any indebtedness beyond the actual means or assets of said corporation; and if said trustees or directors contract debts or incur liabilities beyond the means or assets of said corporation, the trustees or directors so contracting, shall be held liable in their individual capacity for the payment of the same, but the property of said corporation shall first be exhausted.

Location, name, &c., may be changed.

SEC. 12. Any college, university, or other institution of learning, now existing by virtue of any act of incorporation, or that may hereafter become incorporated for any of the purposes specified in this act, may, if three fourths of the trustees or directors thereof deem the same proper, and if said institution is owned in shares, or by stock subscribed or taken, then by a vote of three-fourths of the stock or shareholders, change the location and name of such institution, convey its real estate, and transfer the effects thereof, and invest the same at the place to which such institution shall be removed; Provided, that no such removal shall be ordered, and no vote taken thereon, until after publication in the same manner as herein required for the increase of capital stock; in which notice shall be fully set forth the name and location of the institution proposed to be removed, and the place to which

it is proposed to remove such institution; and provided also, that in case of removal, a copy of the articles of association, with the corporate name of such institution, shall be recorded in the recorder's office of the county to which such institution may be removed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 9, 1852.

AN ACT

To prevent Fraudulent Practices.

As to false or fictitious bills of lading.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That if any person shall execute and deliver, or shall cause or procure to be executed and delivered to any person, any false or fictitious bill of lading, receipt, schedule, invoice, or other written instrument, to the purport or effect that any goods, wares or merchandize, had been or were held, delivered, received, placed or deposited, on board of any steamboat or water craft, navigating the waters in or bordering upon the State of Ohio, when such goods, wares, and merchandize were not held, or had not in fact and in good faith been delivered, received or deposited on board of such steamboat or other water craft, when such billof lading, receipt, invoice, schedule or written instrument was made and delivered according to the purport and effect of such bill of lading, receipt, invoice, schedule or written instrument, with intent to injure, deceive, or defraud any person whomsoever, or if any person shall endorse, assign, transfer or put off, or shall attempt to endorse, assign, transfer or put off, any such false or fictitious bill of lading, receipt, invoice, schedule, or other written instrument, knowing the same to be false, fraudulent or fictitious, the person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, for a term not exceeding four years, nor less than one year.

False or fictitious warehouse receipts; penalty for issuing.

SEC. 2. If any person shall execute and deliver, or shall cause or procure to be executed and delivered to any other person, any false and fictitious warehouse receipt, acknowledgment, or other instrument of writing, to the purport and effect that such person, or any person or persons, copartnership, firm, body politic or corporate, which he or she represents, or pretends to represent, held or had received in store,

or held or had received in any warehouse, or in any other place, or held or had received into possession, custody or control, of such person or persons, copartnership, firm, or body politic, any goods, wares or merchandize, when such goods, wares or merchandize were not held or had not been received in good faith, according to the purport and effect of such warehouse receipt, receipt acknowledgement, or instrument of writing, with intent to defraud, deceive, or injure any person whomsoever, or if any person shall endorse, assign, transfer or deliver, or shall attempt to endorse, transfer and deliver to any other person any such false and fictitious warehouse receipt, receipt acknowledgement, or instrument of writing, knowing the same to be false, fraudulent, or fictitious, such person shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the penitentiary, and kept at hard labor, for a term not more than three years, nor less than one year.

Penalty for storing or transferring goods, &c., on fraudulent assignment

SEC. 3. That if any person or persons, or the agent of any person or persons, having in his or their possession, custody or control, any goods, wares or merchandize, by virtue of any genuine instrument of writing, of the purport or effect of any such instrument of writing as is mentioned in the first or second sections of this act, shall, without authority, and with intent to injure or defraud the rightful owner thereof, sell, assign, transfer or encumber such goods, wares or merchandize, or any part thereof, to the value of fifty dollars or upwards, or shall in any way convert the same to his own use, or if the consigner or consigners, or the agent of such consigner or consigners of any goods, wares or merchandize, not being the absolute owner thereof, and not having authority to stop, countermand or change the consignment thereof, or not having authority to sell or encumber the same during the transit, shall, after the shipment thereof on board any water craft, or after the deposit thereof in or upon any vehicle for land carriage, in any way stop, countermand or change the consignment thereof, or shall sell, dispose of or encumber such goods, wares or merchandize, during their transit, or after their delivery, or shall in any way convert the same, or any part thereof, to his or her own use, to the value of fifty dollars or upwards, so that the rightful owner thereof shall sustain a loss thereby to the value of fifty dollars or upwards, the person so offending, with intent as aforesaid, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, for a term not less than one, nor more than four years.

Sections of former acts repealed.

SEC. 4. That the ninth and tenth sections of the act entitled an act to prevent fraudulent practices, passed the 12th day of March, 1844, and the first section of an act entitled an act to amend the act entitled an act to prevent fraudulent

practices, passed January 31st, 1846, be, and the same are hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 9, 1852.

AN ACT

For ascertaining the Boundaries of Counties.

Surveyor to be required to ascertain county lines.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever it shall appear to the commissioners of any county, that the boundary lines of the county are not sufficiently ascertained, it is hereby made the duty of the commissioners to issue their order to the surveyor of the county, requiring him to ascertain and survey such line or lines.

Commissioners to give notice.

SEC. 2. That it shall be the duty of the commissioners of any county, where the county line or lines are to be run, to give notice to the board of commissioners of the county or counties affected thereby, declaring their intention of running the line or lines of said county; and said commissioners receiving such notice, shall order the county surveyor of such county to proceed and run such lines with the surveyor or surveyors of the adjoining county or counties, at such time and in such manner as shall be fixed upon by the commissioners of said counties.

Return of survey to be made to clerk of court.

SEC. 3. That each county surveyor shall forthwith make out a return of such survey to the clerk of the common pleas of his county, whose duty it shall be to make record thereof.

Surveyors' fees.

SEC. 4. That the county surveyors shall receive for their services, performed under this act, such compensation as may be allowed by the commissioners of the county to which each surveyor respectively belongs, to be paid out of the county treasury, on the commissioners' order.

When suit in chancery may be instituted.

SEC. 5. That whenever the commissioners of any county shall be unable to ascertain the boundary lines of such county with certainty, or having ascertained the boundary line thereof, if the commissioners or officers of such adjoining county shall disregard the true line, the commissioners of the county wishing to establish the line thereof, may commence and prosecute a suit in chancery, in the court of common pleas of such adjoining county, against the commissioners thereof, to ascertain and establish such boundaries.

Commissioners to be made parties.

SEC. 6. That the commissioners in such adjoining county, shall be made parties to such suit by subpœna, as in other cases in chancery; and if such court shall find that the boundary line, to ascertain which such suit is commenced, is not sufficiently ascertained, or that the officers of such adjoining county disregard the true boundary line, said court shall appoint a surveyor, who shall not be a resident of either of such counties, to ascertain and survey such boundary line, and report the same to said court; which report shall be conclusive between such counties as to the true boundary line, unless, for good cause shown, the same shall be set aside; and unless such survey is set aside, as aforesaid, said court shall order a record of the same to be made, and a copy of such record to be transferred to the auditor of each of such counties, and shall order and decree that said line be established as the true boundary line between such counties, and shall enforce such decree by injunction, attachment or otherwise, against the officers of either of said counties disregarding the same.

Disinterested surveyor may be appointed, &c.

Decree as to taxes.

SEC. 7. That said court may make such decree as to taxes previously collected by either of such counties within the true boundary of the territory actually in the other, as may be just and right.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 9, 1852.

AN ACT

For the assessment and taxation of all property in this State, and for levying taxes thereon according to its true value in money.

All property to be listed.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That all property, whether real or personal, in this State, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of persons residing therein; the property of corporations now existing or hereafter created, and the property of all banks or banking companies, now existing, or hereafter created, and of all bankers, except such as is hereinafter expressly exempted, shall be subject to taxation; and such property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, or the value thereof, shall be entered on the list of taxable property, for that purpose, in the manner prescribed by this act.

DEFINITIONS.

Definitions.

Sec. 2. The terms "real property" and "land," wherever used in this act, shall be held to mean and include not only the land itself, whether laid out in town lots or otherwise, with all things contained therein, but also, all buildings, structures and improvements, trees and other fixtures of whatsoever kind thereon, and all rights and privileges belonging, or in anywise appertaining thereto. The term "investments in bonds," whenever used in this act, shall be held to mean and include all moneys invested in bonds, of whatsoever kind, whether issued by incorporated or unincorporated companies, towns, cities, townships, counties, states, or other corporations, or by the United States, held by persons residing in this state, whether for themselves or as guardians, trustees or agents, on which the holder thereof is receiving or entitled to receive interest. The term "investments in stocks," wherever used in this act, shall be held to mean and include all moneys invested in the public stocks of this or any other state, or of the United States, or in any association, corporation, joint stock company or otherwise, the stock or capital of which is or may be divided into shares, which are transferable by each owner, without the consent of the other partners or stockholders, for the taxation of which no special provision is made by this act, held by persons residing in this state, either for themselves, or as guardians, trustees or agents. The term "oath," wherever used in this act, shall be held to mean oath or affirmation. Every word in this act importing the masculine gender, may extend and be applied to females as well as males. The term "personal property," wherever used in this act, shall be held to mean and include,

1st. Every tangible thing being the subject of ownership, whether animate or inanimate, other than money, and not forming part of any parcel of real property, as hereinbefore defined.

2d. The capital stock, undivided profits, and all other means, not forming part of the capital stock of every company, whether incorporated or unincorporated, and every share, portion or interest in such stock, profits or means, by whatsoever name the same may be designated, inclusive of every share or portion, right or interest, either legal or equitable, in and to every ship, vessel or boat, of whatsoever name or description, used or designed to be used either exclusively or partially in navigating any of the waters within or bordering on this state, whether such ship, vessel or boat, shall be within the jurisdiction of this state or elsewhere, and whether the same shall have been enrolled, registered or licensed at any collector's office, or within any collection district in this state or not. The term "money," or "moneys," wherever used in this act, shall

be held to mean and include gold and silver coin, and bank notes in actual possession, and every deposit which the person owning, holding in trust or having the beneficial interest therein, is entitled to withdraw in money, on demand. The term "credits," wherever used in this act, shall be held to mean and include every claim or demand for money, labor or other valuable thing due or to become due, including book accounts, and every annuity or sum of money receivable at stated periods, and all money invested in property of any kind which is secured by deed, mortgage or otherwise, which the person holding such deed or mortgage or evidence of claim, is bound by any lease, contract or agreement to reconvey, release or assign, upon the payment of any specific sum or sums; Provided, that pensions receivable from the United States, or from any of them, salaries or payments expected to be received for labor or services to be performed or rendered, shall not be held to be annuities within the meaning of this act.

PROPERTY EXEMPT FROM TAXATION.

Property exempt from taxation.

SEC. 3. All property described in this section, to the extent herein limited, shall be exempt from taxation, that is to say:

School houses, colleges, &c.

1st. All public school houses, and houses used exclusively for public worship, the books and furniture therein, and the grounds attached to such building necessary for the proper occupancy, use and enjoyment of the same, and not leased, or otherwise used with a view to profit. All colleges, academies; all endowments made for their support; all buildings connected with the same, and all lands connected with institutions of learning, not used with a view to profit. This provision shall not extend to leasehold estates, of real property held under the authority of any college or university of learning of this state.

Burying grounds.

2d. All lands used exclusively as grave yards, or grounds for burying the dead, except such as are held by any person or persons, company or corporation, with a view to profit, or for the purpose of speculation in the sale thereof.

State or U. S. property.

3d. All property, whether real or personal, belonging exclusively to this state, or the United States.

County property.

4th. All buildings belonging to counties, used for holding courts, for jails, or for county offices, with the ground, not exceeding in any county ten acres, on which such buildings are erected.

Poor houses, &c.

5th. All lands, houses and other buildings belonging to any county, township or town, used exclusively for the accommodation or support of the poor.

Public charities.

6th. All buildings belonging to institutions of purely public charity, together with the land actually occupied by such in-

stitutions not leased or otherwise used with a view to profit; and all moneys and credits appropriated solely to sustaining and belonging exclusively to such institutions.

Fire companies.

7th. All fire engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safe keeping thereof, and for the meetings of fire companies, whether belonging to any town, or to any fire company organized therein.

Markets, public squares, &c.

8th. All market houses, public squares, or other public grounds, town or township houses or halls, used exclusively for public purposes, and all works, machinery and fixtures belonging to any town, and used exclusively for conveying water to such town.

Personal property, in value two hundred dollars.

9th. Each individual in this state, shall be allowed to hold, exempt from taxation, personal property of any description, not exceeding in value two hundred dollars. No person shall be required to list a greater portion of any credits than he believes will be received, or can be collected; nor any greater portion of any obligation given to secure the payment of rent, than the amount of rent that shall have accrued on the lease, and shall remain unpaid at the time of such listing. No person shall be required to include in his statement as a part of the personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, which he is required to list, any share or portion of the capital stock or property, of any company or corporation which is required to list or return its capital and property for taxation in this state. The taxes upon banks, banking companies, and all other joint stock companies or corporations of whatsoever kind, levied and collected in pursuance of the provisions of this act, shall be in lieu of any taxes which such bank or banking company, or other joint stock company or corporation, was by former laws required to pay.

BY WHOM, WHERE, AND IN WHAT MANNER PROPERTY SHALL BE LISTED.

Who are required to list property.

SEC. 4. Every person of full age and sound mind, not a married woman, shall list the real property of which he is the owner, situate in the county in which he resides, the personal property of which he is the owner, and all the moneys in his possession; and he shall also list all moneys invested, loaned or otherwise controlled by him, as the agent or attorney, or on account of any other person or persons, company or corporation whatsoever, and all moneys deposited subject to his order, check or draft, and credits due from, or owing by any person or persons, body corporate or politic, whether in or out of such county. The property of every ward shall be listed by his guardian; of every minor child, idiot or lu-

natic, having no other guardian, by his father, if living, if not by his mother, if living, and if neither father nor mother be living, by the person having such property in charge; of every wife, by her husband, if of sound mind, if not by herself; of every person for whose benefit property is held in trust, by the trustee; of every estate of a deceased person, by the executor or administrator; of corporations whose assets are in the hands of receivers, by such receivers; of every company, firm, body politic or corporate, by the president or principal accounting officer, partner, or agent thereof. Every person required to list property on behalf of others, by the provisions of this act, shall list it in the same township in which he would be required to list it, if such property were his own; but he shall list it separately from his own, specifying in each case the name of the person, estate, company or corporation, to whom it belongs; and all real property and merchants and manufacturer's stock, and all the enumerated articles, and all personal property upon farms and real property not in towns, shall be returned for taxation, and taxed in the township and town in which it is situated; and all other personal property, except such as is taxable for state purposes only, shall be entered for taxation in the township and town in which the person charged with the tax thereon resided, at the time a list thereof was taken by the assessor, if such person reside in the county where such property was listed; and if not, then such property shall be entered for taxation and taxed in the township where situated when listed, anything in this act to the contrary notwithstanding.

Leasehold property, &c.

SEC. 5. Property held under a lease for a term exceeding fourteen years, belonging to the state, or to any religious, scientific or benevolent society, or institution, whether incorporated or unincorporated, and school and ministerial lands, shall be considered, for all purposes of taxation, as the property of the person so holding the same, and shall be listed as such by such person or his agent, as in other cases.

Property to be listed on oath.

SEC. 6. Each person required by this act to list property, shall make out and deliver to the assessor, when required, or within ten days thereafter, a statement, verified by his oath or affirmation, of all the personal property, moneys, credits, investments in bonds, stock, joint stock companies, or otherwise, in his possession, or under the control of such person, at the time notice was given him by the assessor, to make out such statement, and which, by the provisions of this act, he is required to list for taxation, either as owner or holder thereof, or as guardian, parent, husband, trustee, executor, administrator, receiver, accounting officer, partner, agent or factor.

SEC. 7. Such statement shall truly and distinctly set forth:

Horses.

First, the number of horses and the value thereof.

Cattle, &c. Second, the number of neat cattle and the value thereof.

Third, the number of mules and asses, and the value thereof.

Fourth, the number of sheep, and the value thereof.

Fifth, the number of hogs, and the value thereof.

Carriages. Sixth, every pleasure carriage, of whatsoever kind, and the value thereof.

Provided, that if such person shall exhibit to the assessor, the animals, or other articles of personal property, above enumerated, the value of such property, so exhibited, shall be determined by the assessor.

Watches. And such person shall further make to the assessor a statement of every gold and silver watch, and the value thereof.

Piano Fortes. Every piano forte, and the value thereof.

Merchandize. The value of the goods and merchandise which such person is required to list as a merchant.

Bankers' capital, &c. The value of the property which such person is required to list as a banker, broker, or stock jobber.

Manufactured articles. The value of the materials and manufactured articles, which such person is required to list as a manufacturer.

Moneys and credits. The value of moneys and credits, required to be listed, including all book accounts.

Bonds, stocks, &c. The value of the moneys invested in bonds, stocks, joint stock companies, or otherwise, which such person is, by this act, required to list.

Other personal property. The total value of all other articles of personal property, which such person is, by this act, required to list.

Oath in case of no property. SEC. 8. If there be no articles of personal property, moneys or credits, investments in bonds, stocks, joint stock companies or otherwise, which such person would be, by this act, required to list, on his own account, or on account of others, he may set forth such fact to the assessor, who shall require the oath or affirmation of such person to the truth of the same.

RULES FOR VALUING PROPERTY.

Rules of valuation. SEC. 9. Each separate parcel of real property, shall be valued at its true value in money, excluding the value of the crops growing thereon; but the price for which such real property would sell at auction, or at a forced sale, shall not be taken as the criterion of such true value. Each tract or lot of real property belonging to this State, or to any county, city, or charitable institution, whether incorporated or unincorporated, and school or ministerial lands, held under lease for a term exceeding fourteen years, shall be valued at such price as the assessor believes could be obtained at private sale for such leasehold estate. Personal property, of every description, shall be valued at the usual selling price of similar property at the time of listing. and at the place where

the same may then be; and if there be no usual selling price known to the person whose duty it shall be to fix a value thereon, then at such price as it is believed could be obtained therefor, in money, at such time and place. Investments in bonds, stocks, joint stock companies, or otherwise, shall be valued at the true value thereof, in money. Money, whether in possession, or on deposit, shall be entered in the statement at the full amount thereof; Provided, that depreciated bank notes shall be entered at their current value. Every credit for a sum certain, payable either in money, property of any kind, labor or services, shall be valued at the full price of the sum so payable; if for a specific article, or for a specified number or quantity of any article or articles of property, or for a certain amount of labor, or for services of any kind, it shall be valued at the current price of such property, or of such labor or service, at the place where payable. Annuities or moneys receivable at stated periods, shall be valued at the price which the person listing the same, believes them to be worth in money.

OF DEDUCTIONS MADE FROM MONEYS AND CREDITS.

Moneys and credits.

SEC. 10. In making up the amount of moneys and credits which any person is required to list for himself or any other person, company or corporation, he shall be entitled to deduct from the gross amount of moneys and credits, the amount of all bona fide debts owing by such person, company or corporation, to any other person, company or corporation, for a consideration received; but no acknowledgment of indebtedness, not founded on actual consideration, believed, when received, to have been adequate, and no such acknowledgment made for the purpose of being so deducted, shall be considered a debt within the meaning of this section; and so much only of any liability, as surety for others, shall be deducted, as the person making out the statement believes the surety is legally and equitably bound to pay, and so much only as he believes such surety will be compelled to pay on account of the inability or insolvency of the principal debtor; and if there are other sureties who are able to contribute, then only so much as the surety in whose behalf the statement is made, will be bound to contribute; Provided, that nothing in this section shall be so construed as to apply to any bank, company or corporation, exercising banking powers or privileges.

What liabilities are not to be deducted.

SEC. 11. No person, company or corporation, shall be entitled to any deduction, on account of any bond, note or obligation of any kind, given to any mutual insurance company; nor on account of any unpaid subscription to any religious,

literary, scientific or charitable institution or society; nor on account of any subscription to, or instalment payable on the capital stock of any company, whether incorporated or unincorporated.

OF LISTING AND VALUING THE PROPERTY OF MERCHANTS AND MANUFACTURERS, AND OF BANKERS, EXCHANGE BROKERS, AND STOCK JOBBERS, &c.

Merchants, Manufacturers, &c.

SEC. 12. Every person that shall own, or have in his possession, or subject to his control, any personal property within this State, with authority to sell the same, which shall have been purchased either in or out of this State, with a view to being sold at an advanced price, or profit, or which shall have been consigned to him, from any place out of this State, for the purpose of being sold at any place within this State, shall be held to be a merchant; and, when he shall be by this act required to make out and deliver to the assessor a statement of his other personal property, he shall state the value of such property appertaining to his business as a merchant; and in estimating the value thereof, he shall take as the criterion, the average value of all such articles of personal property which he shall have had from time to time in his possession, or under his control, during the year next previous to the time of making such statement, if so long he shall have been engaged in business; and if not, then during such time as he shall have been so engaged; and the average shall be made up by taking the amount in value on hand, as nearly as may be, in each month of the next preceding year in which the person making such statement shall have been engaged in business, adding together such amounts, and dividing the aggregate amount thereof by the number of months that the person making the statement may have been in business during the preceding year; Provided, that no consignee shall be required to list for taxation the value of any property, the product of this State, which shall have been consigned to him, for sale or otherwise, from any place within the State, nor the value of any property consigned to him from any other place for the sole purpose of being stored, or forwarded; Provided, he shall, in either case, have no interest in such property, or any profit to be derived from its sale; and the word person, as used in this and the succeeding sections, shall be held to mean and include, firm, company and incorporation.

As to property held on consignment.

Who held to be manufacturers.

SEC. 13. Every person who shall purchase, receive, or hold personal property of any description, for the purpose of adding to the value thereof by any process of manufacturing, refining, rectifying, or by the combination of different materials, with a view of making a gain or profit by so doing, shall

be held to be a manufacturer; and he shall, when he is required to make and deliver to the assessor a statement of the amount of his other personal property subject to taxation, also include in his statement the average value estimated, as provided in the preceding section, of all articles purchased, received, or otherwise held, for the purpose of being used, in whole or in part, in any process or operation of manufacturing, combining, rectifying or refining, which from time to time he shall have had on hand during the year next previous to the time of making such statement, if so long he shall have been engaged in such manufacturing business, and if not, then during the time he shall have been so engaged.

Engines, machinery, &c.

SEC. 14. Every person owning a manufacturing establishment of any kind, and every manufacturer, shall list as part of his manufacturer's stock, the value of all engines and machinery, of every description, used, or designed to be used, in any process of refining or manufacturing, (except such fixtures as shall have been considered as part of any parcel or parcels of real property,) including all tools and implements of every kind used, or designed to be used, for the aforesaid purposes.

Bankers, brokers and stock-jobbers.

SEC. 15. Every person who shall have money employed in the business of dealing in coin, notes, or bills of exchange, or in the business of dealing in, or buying or shaving any kind of bills of exchange, checks, drafts, bank notes, promissory notes, bonds, or other writing obligatory, or stocks of any kind or description whatsoever, shall be held to be a banker, broker, or stock-jobber; and he shall, when he is required to make out and deliver to the assessor a statement of the amount or value of his other personal property subject to taxation, also include in his statement the average value estimated as provided in the twelfth section of this act, of all moneys, notes, bills of exchange, bonds, stocks, or other property appertaining to his business as a banker, broker, or stock-jobber, which he shall have had from time to time in his possession, or under his control, during the year next previous to the time of making such statement, if so long he shall have been engaged in such business, and if not, then during the time he shall have been so engaged.

Merchants commencing business after the 1st of June.

SEC. 16. That when any person shall commence merchandising in any county after the first day of June, in any year, the average value of whose personal property employed in merchandizing shall not have been previously entered on the assessor's list for taxation, in said county, such person shall report to the auditor of the county, the probable average value of the personal property by him intended to be employed in merchandizing until the first day of May thereafter, and shall pay into the treasury of such county, a sum which shall

bear the same proportion to the levy for all purposes, on the average value so employed, as the time from the day on which he shall commence merchandizing, as aforesaid, to the first of May next succeeding, shall bear to one year; Provided, that if the person so listing his merchant's capital, shall present a bona fide receipt from the treasurer of any county, in which such merchant's capital had been previously listed and taxed, for the amount of the taxes assessed and by him paid on the same capital for the same year, then and in that case, it shall be a receipt from paying taxes again on such capital.

Bankers, brokers, &c. after 1st of June.

SEC. 17. That when any person shall commence or engage in the business of dealing in stocks of any description, or in buying or shaving any kind of bills of exchange, checks, drafts, bank notes, promissory notes, or other kind of writing obligatory, as mentioned in the fifteenth section of this act, after the first day of June in any year, the average value of whose personal property employed in such business shall not have been previously entered on the assessor's list for taxation, in said county, such person shall report to the auditor of the county the probable average value of the personal property by him intended to be employed in such business until the first day of May thereafter, and shall pay into the treasury of such county, a sum which shall bear the same proportion to the levy for all purposes, on the average value so employed, as the time from the day on which he shall commence or engage in such business as aforesaid, to the first day of May next succeeding, shall bear to one year.

Forfeiture for neglect to report.

SEC. 18. That if any person shall commence or engage in the business of merchandizing, banking, brokerage, or stock-jobbing, aforesaid, as aforesaid, and shall not, within one month thereafter, report to the county auditor, and make payment to the county treasurer, as before required, he shall forfeit and pay the sum of two per cent. on the value of personal property by him so employed, to be ascertained as near as may be, by the testimony of witnesses, and recovered before any justice of the peace or court having jurisdiction thereof, by an action of debt, in the name of the county treasurer, for the use of the county.

OF LISTING AND VALUING THE PROPERTY OF BANKS AND BANKING COMPANIES, AND OTHER CORPORATIONS.

Officers of banks shall make return to county auditor.

SEC. 19. It shall be the duty of the president and cashier of every bank or banking company that shall have been or may hereafter be incorporated by the laws of this State, and having the right to issue bills for circulation as money, to make out and return under oath, to the auditor of the county in

which such bank or banking company may be situated, in the month of May, annually, a written statement containing,

1st. The average amount of notes and bills discounted, or purchased by such bank or banking company, which amount shall include all the loans or discounts of such bank or banking company, whether originally made or renewed during the year aforesaid, or at any time previous; whether made on bills of exchange, notes, bonds, mortgages, or any other evidence of indebtedness, (at their actual value in money,) whether due previous to, during, or after the period aforesaid; and on which such bank or banking company has at any time reserved or received, or is entitled to receive, any profit, or other consideration whatever, either in the shape of interest, discount, exchange, or otherwise. Notes and bills discounted.

2d. The average amount of all other moneys, effects, or dues of every description belonging to such bank or banking company, loaned, invested or otherwise used or employed with a view to profit, or upon which such bank or banking company receives, or is entitled to receive interest. Loans, &c.

Sec. 20. To ascertain the amount of the notes and bills discounted and purchased, and all other moneys, effects or dues of every description belonging to such bank or banking company, loaned, invested, or otherwise used or employed, with a view to profit, or upon which such bank or banking company receives, or is entitled to receive interest, to be returned as aforesaid, there shall be taken as a criterion, the average amount of the aforesaid items for each month during the year next previous to the time of making such statement, if so long such bank or banking company shall have been engaged in business, and if not, then during such time as such bank or banking company shall have been engaged in usiness; and the average shall be made by adding together the amount so found belonging to such bank or banking company in each month so engaged in business, and dividing the same by the number of months so added together. Rule of estimate.

Sec. 21. The president, secretary, or principal accounting officer of every canal or slackwater navigation company, railroad company, turnpike or plank road company, bridge company, insurance company, telegraph company, or other joint stock company, except banking or other corporations whose taxation is specifically provided for in this act, for whatever purpose they may have been created, whether incorporated by any law of this State or not, shall list for taxation, at its actual value, its real and personal property, moneys and credits, within this State, in manner following: In all cases return shall be made to the several auditors of the respective counties where such property may be situated, together with a statement of the amount of said property, which is situated in each township, town, city, or ward therein. The value of all Canal, railroad, insurance and other companies.

moveable property shall be added to the stationary and fixed property and real estate, and apportioned to such wards, towns, cities, and townships, *pro rata*, in proportion to the value of the real estate and fixed property in said ward, town, city or township. And all property so listed shall be subject to, and pay the same taxes as other property listed in such ward, town, city or township. It shall be the duty of the accounting officer aforesaid, to make return to the auditor of state, during the month of May, of each year, of the aggregate amount of all property, real and personal, by him returned, as required by the provisions of this act, to the several auditors of the respective counties in which the same may be located. If the county auditor, to whom returns are made, is of the opinion that false or incorrect valuations have been made, or that the property of the corporation or association has not been listed at its full value, or that it has not been listed in the location where it properly belongs, or in cases where no return has been made to the county auditor, he is hereby required to proceed to have the same valued and assessed in the same manner as is prescribed in the several sections of this act, regulating the duties of county auditors; Provided, that nothing in this section shall be so construed as to tax any stock or interest in any joint stock company held by the State of Ohio; Provided, that every agency of an insurance company incorporated by the authority of any other state or government, shall return to the auditor of the county in which the office or agency of such company may be kept, in the month of May, annually, the amount of the gross receipts of such agency, which shall be entered upon the tax list of the proper county, and subject to the same rate of taxation for all purposes, that other personal property is subject to at the place where located.

Ohio Life Insurance and Trust Company.

SEC. 22. The Ohio life insurance and trust company, by its president or cashier, shall, in the month of May, annually, return under oath, to the county auditors of the several counties of the state, a statement of its moneys loaned, and dues of every description in such counties respectively, which amounts shall be entered upon the tax list of the proper counties, and taxed the average rate per cent. of the taxes, for all taxes levied upon the real and personal property of such counties; and the president or cashier of said company shall, in the month of May, annually, return to the auditor of the county in which the principal office of said company is kept, a statement of the amount and value of the notes and bills discounted or purchased, and all other moneys, effects or dues of every description belonging to its banking department, and loaned, invested, or otherwise used or employed with a view to profit, or upon which said company receives, or is entitled to receive interest, and which amount shall not include its moneys loaned in the several counties of the state, returned and taxed as aforesaid; which amounts shall

be ascertained in the manner prescribed by the nineteenth and twentieth sections of this act, and shall be entered on the tax list and taxed in the same manner as is provided by this act, for the taxation of other banking companies.

POWERS AND DUTIES OF TOWNSHIP ASSESSORS.

One Assessor to be elected in each township, ward, &c.

SEC. 23. In each township, town and ward, in this state, forming an election district, there shall be elected on the first Monday of April, annually, by the qualified electors of such township, town or ward, forming an election district, one assessor for such township, town or ward, or part of a township, not included in any other election district.

SEC. 24. Each township assessor shall give bond, and take the prescribed oath of office, on or before the first Monday after his election, and the township clerk shall notify the county auditor thereof, and if the county auditor shall receive no notice of the qualification of the assessor, in any township, ward or city in his county, on or before the third Monday of April in each year, after such election, he shall consider such office vacant; or if there shall be, at any time, or from any cause, a vacancy in the office of assessor, or if the assessor of any township or ward, shall not have proceeded to the discharge of the duties of his office before the third Monday of April in each year, the county auditor shall forthwith appoint one or more suitable persons, residents of the county, to discharge the duties of assessor in such township or ward, as required in the fourteenth section of the act to create the office of township assessor.

When assessment shall be made.

SEC. 25. The assessment of all personal property, moneys and credits, investments in bonds, stocks, joint stock companies, or otherwise, and the valuation of all lands and lots, and new structures which have not previously been valued and placed on the duplicate, shall be made between the second Monday of April and the second Monday of May, annually; and the assessor of each township, shall, on or before the first day of May, annually, leave with each person resident, in his township, of full age, not a married woman, or insane person, or at the office, usual place of residence or business of such person, a written or printed notice, requiring such person to make out for such assessor, a statement of the property which by this act he is required to list, accompanied with printed forms, in blank, of the statements required of such persons; and the assessor shall, at the time he delivers such notice, and blank forms, receive from such person, the statement of his or her personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, verified by his oath, unless such person shall require further time to make out such statement, in which case he shall call for such statement before the second Monday of May.

Procedure in case of refusal to give statement, &c.

SEC. 26. In every case where any person shall refuse to make out and deliver to the township assessor, a statement of personal property, moneys and credits, investments in bonds, stocks, joint stock companies, or otherwise, as provided by this act, or shall refuse to take and subscribe an oath or affirmation as to the truth of such statement, or any part thereof, which he is by this act required to verify by his oath or affirmation, or in case of the sickness or absence of such person, the assessor shall, in every such case, proceed to ascertain thenumber of each description of the several articlesof personal property, enumerated in the seventh section of this act, and the value thereof, the value of personal property subject to taxation, other than enumerated articles, and the value of the moneys and credits, investments in bonds, stocks and joint stock companies, or otherwise, of which a statement shall not have been made to said assessor, as aforesaid, as the case may require; and to enable him so to do, he is hereby authorized to examine on oath, or affirmation, any person or persons whom he may suppose to have a knowledge of the articles or value of the personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, which the person so refusing, or absent, or sick, was required to list.

In case of sickness or absence.

SEC. 27. In all cases in which the township assessors are required, in consequence of the sickness, or absence of the person whose duty it is to make out a statement of personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, or in consequence of his neglect or refusal to make out or to be sworn to such statement, to ascertain the several items and value of such personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, if the assessor shall be unable to obtain positive evidence of the items and value of such property, moneys and credits, he shall return such articles and value as, from general reputation and his own knowledge of facts and circumstances he believes to be a correct list of the articles and value of such property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, that such person would be by this act required to list.

Time and mode of return to county auditor.

SEC. 28. Each township assessor shall, on or before the second Monday of May, annually, make out and deliver to the auditor of his county, in tabular form and alphabetical order, a list or lists of the names of the several persons, companies, or corporations, in whose names any personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, shall have been listed in his township; and he shall enter separately in appropriate columns, opposite each name, the aggregate value of the several species of personal property enumerated in the seventh section of this act, as attested by the person required to list the same, or as determined by the assessor, making separate lists of persons residing

out of an incorporated town, and of persons who are residents of any incorporated town, the columns shall be accurately added up; and in every case where any person whose duty it is to list any personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, for taxation, shall have refused to list the same, when called on for that purpose by the assessor, or to take and subscribe an oath or affirmation, in regard to the truth of his statement of personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, or any part thereof, when required by the assessor, the assessor shall enter opposite the name of such person, in an appropriate column, the words, "refused to list," or "refused to swear;" and in every case where any person required to list property for taxation, shall have been absent or unable from sickness to list the same, the assessor shall enter opposite the name of such person, in an appropriate column, the word, "absent," or "sick."

Return of statement in alphabetical order.

SEC. 29. Each township assessor shall, at the time he is required by this act to make his return of taxable property to the county auditor, also deliver to him all the statements of property, which he shall have received from persons required to list the same, arranged in alphabetical order, and the auditor shall carefully preserve the same in his office for one year.

Return of list of real property.

SEC. 30. Each township assessor shall, annually, at the time of taking a list of personal property, also take a list of all real property situate in his township, that shall have become subject to taxation since the last previous listing of property therein, with the value thereof estimated agreeably to the rules prescribed therefor by the ninth section of this act, and of all new buildings, or other structures of any kind of over one hundred dollars in value, the value of which shall not have been previously added to, or included in the valuation of the land on which such structures have been erected; and shall make return to the county auditor thereof, at the same time he is required by this act to make his return of personal property, in which return he shall set forth the tract or lot of real property on which each of such structures shall have been erected, the kind of structures so erected, and the true value added to such parcel of real property, by the erection thereof; and the additional sum which it is believed the land on which the structure is erected, would sell for at private sale, in consequence thereof, shall be considered the value of such new structure; and in case of the destruction by fire, flood, or otherwise, of any building or structure, of any kind, over one hundred dollars in value, which shall have been erected previous to the last valuation of the land on which the same shall have stood, or the value of which shall have been added to any former valuation of such land, the assessor shall determine, as near as practicable, how much less such land would sell for at private sale in consequence of such destruc-

tion, and make return thereof to the county auditor, as in this section provided.

Oath of township assessor.

SEC. 31. Each township assessor shall take and subscribe an oath, which shall be certified by the magistrate administering the same, and attached to the return which he is required to make to the county auditor, in the following form:

I ——————————, assessor for ——————— township, in the county of ————, do solemnly swear, that the value of all personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of which a statement has been made to me by the person required by this act, for the assessment and taxation of all property in this State, according to true value, to list the same, is truly returned, as set forth in such statement; that in every case, where, by law, I have been required to ascertain the items and value of the personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of any person, company, or corporation, I have diligently, and by the best means in my power, endeavored to ascertain the same; and that, as I verily believe, a full list, with the value thereof, estimated by the rules prescribed by said act, is set forth in the annexed return; that in no case, have I, knowingly, omitted to demand of any person of whom, by said act, I was required to make such demand, a statement of the description and value of personal property, or of the amount of moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, which he was required to list, or in any way connived at any violation or evasion of any of the requirements of said act, in relation to the listing or valuation of property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of any kind, for taxation.

Fees of assessors.

SEC. 32. The township assessors shall be allowed one dollar and fifty cents per day, to be paid out of the county treasury, for the time which they shall be necessarily employed in the performance of their duties, and they shall make out their accounts in detail, giving the date of each day which they shall have been employed, which account they shall verify under oath; and the county auditor shall be competent to administer such oath, and if he should find such account to be correct, shall draw an order on the treasurer for the same; but in no case shall the county auditor give an assessor an order for his compensation until he shall have filed his list of assessments, with the statements returned to him, and the books in which the original assessments were entered, with the auditor, which lists shall be accurately made out and added up.

DISTRICT ASSESSORS—HOW AND WHEN APPOINTED.

Counties to be divided into four districts.

SEC. 33. The county commissioners of each county in this state, shall, at their June session in one thousand eight hundred and fifty-two, and every sixth year thereafter, divide their county into four districts, except the county of Hamilton, which may be divided into any number, not less than six nor more than twelve; and in forming such districts, the said commissioners shall make them as nearly equal in population and extent of territory as may be; and no township or ward shall be divided in forming such districts; and the said commissioners shall immediately give notice, by publication in some newspaper in the county, and if no newspaper is published in the county, then by public notice set up in each township and ward, at the usual place of holding elections, setting forth the boundaries of such district; and the qualified electors of such district shall, at the October election, in the year one thousand eight hundred and fifty-two, and every sixth year thereafter, elect some citizen of such district, having the qualifications of an elector, as assessor of real property within such district; the judges of election shall keep a separate poll book for the election of such assessor, and the returns thereof, duly certified, as in other cases, shall be made to the county auditor, who, with the clerk of the court of common pleas, and probate judge of the county, shall open the same and declare the result; and the auditor shall, within ten days after opening such returns, give notice of his election to each of the persons elected.

District assessors to be elected.

Bond and oath of district assessors.

SEC. 34. Each person elected to the office of district assessor, shall be forthwith notified by the county auditor of his election; and each person so elected shall, within ten days after receiving such notice, file with such auditor his bond, payable to the State of Ohio, with at least one good freehold surety, to the acceptance of the county auditor, in the penal sum of two thousand dollars, conditioned that he will diligently, faithfully and impartially perform all and singular the duties enjoined on him by this act; and he shall, moreover, take and subscribe on said bond, an oath that he will, according to the best of his judgment, skill and ability, diligently, faithfully and impartially perform all the duties enjoined on him by this act; and if any person so elected shall fail to give bond, or shall fail to take an oath as is required in this section, within the time therein prescribed, the office to which he was elected shall be considered vacant, and shall be forthwith filled by the commissioners, who shall be immediately called together for that purpose by the county auditor, by the appointment of some other suitable competent citizen of the county; and the person appointed to such vacancy shall be

Vacancies provided for.

notified by the county auditor, shall give bond, and take an oath [of] office within the time after receiving such notice, and in the manner prescribed in this section.

Vacancies after 10th of April.

SEC. 35. If there shall be a vacancy in the office of district assessor in any district of any county, after the tenth day of April in any year, when the assessment of the real property of the state is to be made, such vacancy shall be forthwith filled by the auditor, treasurer, and recorder of the county in which such vacancy shall occur, or any two of them, by the appointment of any competent and suitable citizen of their county, who will accept and perform the duties of such office.

Duties of district assessors.

SEC. 36. It shall be the duty of each district assessor to make out from the maps and descriptions furnished him by the county auditor, and from such other sources of information as shall be in his power, a correct and pertinent description of each tract and lot of real property in his district; and when he shall deem it necessary to obtain an accurate description of any separate tract or lot in his district, he may require the owner or occupier thereof to furnish the same, with any title papers he may have in his possession; and if such owner or occupier, upon demand made for the same, shall neglect or refuse to furnish a satisfactory description of such parcel of real property to such assessor, he may employ a competent surveyor to make out a description of the boundaries and location thereof, and a statement of the quantity of land therein, and the expense of such survey shall be returned by such assessor to the auditor of his county, who shall add the same to the tax assessed upon such real property; and it shall be collected by the treasurer of the county with such tax, and when collected, shall be paid on demand to the person to whom the same is due; and he shall, in all cases, from actual view, and from the best sources of information within his reach, determine as near as practicable, the true value of each separate tract and lot of real property in his district, according to the rules prescribed by this act for valuing real property; and he shall note in his plat-book, separately, the value of all houses, mills, and other buildings, which exceed one hundred dollars in value, on any tract of land other than town lots, which shall be carried out as a part of the value of such tract; he shall also enter on his plat book, the number of acres of arable or plow land, the number of acres of meadow and pasture land, and the number of acres of wood and uncultivated land, in each tract, as near as may be.

As to buildings, &c.

SEC. 37. For the purpose of enabling the assessor to determine the value of buildings and other improvements, he is hereby required to enter, with the consent of the owner or occupant thereof, and fully to examine all buildings and structures of whatever kind, which are not by this act expressly exempted from taxation.

Return to county auditor.

SEC. 38. Each district assessor shall, on or before the first Monday of September, one thousand eight hundred and fifty-three, and every sixth year thereafter, make out and deliver to the auditor of his county, a return, in tabular form, contained in a book to be furnished him by such auditor, of the amount, description and value of the real property subject to be listed for taxation in his district, which return shall contain:

Names, and description of lands.

1st. The names, arranged in alphabetical order, of the several persons, companies or corporations, in whose names the several tracts of real property, other than town property, in each township within his district, shall have been listed; and in appropriate columns, opposite each name, the description of each tract, designating the number of acres, the number of the section, and the part thereof, and of the township or survey, listed in such name, and the value of each separate tract, as determined by the assessor.

Of persons, companies and corporations.

2d. The names, arranged in alphabetical order, of the several persons, companies or corporations, in whose names the several lots of real property in each town in his district, shall have been listed; and in the appropriate columns opposite each name, the description of each lot and the value thereof, as determined by the assessor; and such description shall designate the town and number of the lot, and the part thereof; and if part of a lot is listed, it shall state the number of feet along the principal street on which it abuts. If the name of the owner of any tract of land or lot shall be unknown, the word "unknown" shall be entered in the column of names opposite said tract or lot.

Virginia military district.

If such land be situated in the Virginia military district, or is not embraced in any land district, it shall set forth the original survey or surveys, part or parts thereof, contained in each separate tract so listed.

Burying grounds, school houses, &c.

SEC. 39. The district assessor, at the time of making the assessment of real property subject to taxation, shall enter in a separate list, pertinent descriptions of all burying grounds, public school houses, houses used exclusively for public worship, and institutions of purely public charity, and public buildings and property used exclusively for any public purpose, with the lot or tract of land on which such house or institution or public building is situated, and which are by this act exempt from taxation; and he shall value such houses, buildings, property, lots and tracts of land, at their true value in money, in the same manner that he is required to value other real property, designating in each case the township or town, and number of the school district, or the name or designation of the school, religious society or institution, to which each house, lot or tract belongs; or if such property is held and used for other public purposes, he shall state by whom, or how it is held.

DUTIES OF COUNTY AUDITORS.

Duties of county auditor.

SEC. 40. The county auditors of each county, shall, as soon as practicable, after the first day of March, one thousand eight hundred and fifty-three, and every sixth year thereafter, make out and deliver to the assessor of each district in his county, an abstract from the books in his office, containing a description of each tract and lot of real property situate within such district, with the name of the owner thereof, if known, and the number of acres or quantity of land contained therein, as the same shall appear on his books; and also, a map of each township and town within such district, with such plat books as may be necessary to enable the district assessor to make a correct plat of each section, survey and tract, in his district.

In relation to banking companies.

SEC. 41. Each auditor of any county, within the limits of which any bank or banking company may be located, shall, in case any president or cashier of such bank or banking company, refuse or neglect to make out and deliver to the auditor the statement required in the nineteenth section of this act, enter upon the duplicate of the proper county, for taxation as aforesaid, as the amount of capital, fifty per cent. in addition to the amount of the capital stock of such bank, or banking company; and in order to ascertain the average amount of notes and bills discounted or purchased, and all other moneys, effects or dues of every description, belonging to such bank or banking company, loaned, invested, or otherwise used or employed with a view to profit, or upon which such bank or banking company, receives, or is entitled to receive, interest, such auditor is authorized to take or procure to be taken, the testimony of such of the officers, directors or stockholders of such banking company, or of other persons known or supposed by him to be conversant with the affairs of such bank or banking company, as may enable him to ascertain the amount upon which such bank or banking company should be taxed, agreeably to the provisions of the nineteenth and twentieth sections of this act; to which amount, when so ascertained, he shall add fifty per cent., which amount he shall then enter upon the duplicate for taxation, as prescribed by this act; Provided, that in cases where city taxes are assessed and collected by city authorities, the taxes upon banks for city purposes shall be assessed and collected the same as city taxes.

Ohio Life and Trust company.

SEC. 42. Each auditor of any county within the limits of which the Ohio Life Insurance and Trust Company shall have moneys loaned, at interest, shall, in case the president or cashier of said company shall fail to return to the auditor of such county the amount of its moneys loaned, or other dues, as provided in the twentieth section of this act, proceed to ascertain, from the record of mortgages, or other evidence, the amount of the loans made by said company in his county, and he shall place the

amount so returned or ascertained, upon the duplicate, and levy thereon the average rate or per cent. of the taxes levied for all purposes upon the real and personal property of the county; which tax shall be collected by the county treasurer, and distributed by giving to the State its proportion, according to the rate levied for State purposes, and to the county, townships, towns and corporations, their share of the balance, respectively, in proportion to the several amounts on which the average rate shall have been determined; and in case default shall be made in the payment of said tax, within the time limited by law, it shall be the duty of the county treasurer to proceed to collect the same; and for that purpose he may file a bill in chancery in the court of common pleas of the proper county, setting forth the amount of taxes assessed against said company, and the names of the debtors of said company, as shown by the record of such county; and it shall be the duty of such court to take jurisdiction thereof, and to grant an injunction, appoint a receiver, and make such other and further order, as may be necessary to subject the interest, accruing on the loans of said company, to the satisfaction of the tax aforesaid, with the penalties, interest and cost thereon, as provided by law.

Fifty per cent. to be added, in case of refusal to list.

SEC. 43. Each county auditor shall add to the value, as returned by the assessor, of all personal property, and of all moneys, credits, investments, in bonds, stocks, joint stock companies, or otherwise, which the owner, or other person in behalf of the owner, whose duty it is made by this act to list the same, has refused to list, or to the value of which such person shall have refused to swear or affirm, when required so to do, in obedience to the provisions of this act, fifty per centum on the value so returned by the assessor.

In case of sickness or absence.

SEC. 44. If any person required to list property for taxation, shall have been prevented by sickness, or absence, from giving to the assessor such statement, such person, or his agent, having charge of such property, may, at any time before the assessment of taxes thereon by the county auditor, make out and deliver to the county auditor, a statement of the same as required by this act; and the county auditor shall, in such case, make an entry thereof in the return for the proper township, and correct the corresponding item or items in the return made by the assessor, as the case may require; but no such statement shall be received by the county auditor from any person who shall have refused to make oath to his statement, when required by the assessor, agreeably to the provisions of the twenty-fifth section of this act, nor from any person unless he shall make and file with the county auditor, an affidavit that the person required by this act to list the same, was absent from his township, without design to avoid the listing of his property, or was prevented by sickness from giv-

ing to the assessor the required statement, when called on for that purpose.

When lands or lots have been omitted, how to proceed.

SEC. 45. If, from a careful examination of the returns made by the district assessors, the county auditor shall discover that any tract of land, or town lot, or part of either, in his county, shall have been omitted in the returns of such assessors, he shall add the same to his list of real property, with the name of the owner, and shall forthwith notify the assessor in whose returns such omission occurred, thereof, who shall forthwith proceed to ascertain, and return to the county auditor, the value of the tract, or lot, or part thereof; or in case of the inability or neglect of the assessor, the auditor may ascertain the value of such tract, or lot, or part thereof, and add the same to the list of real property.

In case of false statement, duty of auditor.

SEC. 46. The county auditor, if he shall have reason to believe or be informed that any person has given to the assessor a false statement of the personal property, moneys or credits, investments in bonds, stocks, joint stock companies or otherwise, or that the assessor has not returned the full amount required to be listed in his township, or has omitted, or made an erroneous return of any property, moneys or credits, investments in bonds, stocks, joint stock companies, or otherwise, which are by law subject to taxation, shall proceed, at any time before the final settlement with the county treasurer, to correct the return of the assessor, and to charge such persons on the duplicate, with the proper amount of taxes; to enable him to do which, he shall be invested with all the powers conferred on township assessors by this act; and it shall be the duty of the auditor in all such cases, to notify every such person, before making the entry upon the duplicate, that he may have an opportunity of showing that his statement or return of the assessor was correct; and the county auditor shall, in all such cases, file in his office a statement of the facts or evidence upon which he made such correction; but he shall in no case reduce the amount returned by the assessor without the written assent of the auditor of state, given on a statement of facts submitted by the county auditor.

Errors to be corrected.

SEC. 47. Each county auditor shall, from time to time, correct any errors which he may discover in the name of the owner, in the valuation, description or quantity of any tract or lot contained in the list of real property in his county; but in

But no deduction to be made except.

no case shall he make any deduction from the valuation of any tract or lot of real property, except such as shall have been ordered, either by the state board or by the county board of equalization, in conformity with the provisions of this act, or upon the written order of the auditor of state; which written order shall only be made upon a statement of facts submitted to the auditor of state in writing.

SEC. 48. Each county auditor shall correct the valuation of any parcel of real property, on which any new structure of over one hundred dollars in value may have been erected, or on which any structure of the like value shall have been destroyed, agreeably to the return thereof made in accordance with the provisions of this act by the assessor, and assess the taxes upon such corrected valuation. In case of erection of new, or destruction of old structures.

SEC. 49. County auditors shall not publish in the list of delinquent or forfeited lands, any tract or lot upon which the taxes due shall not be more than double the cost of publishing such tract or lot, but such tract or lot shall be retained upon the duplicate until the taxes due thereon shall be more than double the cost of publishing the same in the list of delinquent or forfeited lands. When delinquent lands shall not be advertised.

SEC. 50. Each county auditor shall make out and transmit to the auditor of state, before the first day of September, annually, a statement of the aggregate value of the taxable property in his county, and of the total amount of taxes for all purposes assessed thereon for that year; and he shall make out and transmit by mail, to the auditor of state, on or before the first day of October in every year, a complete abstract of the duplicate of his county; he shall also, at the same time, make out and transmit to the auditor of state, an abstract of the number and value of each of the enumerated articles, the value of merchants' and manufacturers' stock, and the value of all other personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, and the value of all other articles of personal property as returned by the township assessors, or as fixed by the county board of equalization; said abstracts shall be made out in such form as the auditor of state shall prescribe; and shall also make out and transmit to the auditor of State, before the fourth Monday of October, one thousand eight hundred and fifty-three, and every sixth year thereafter, a complete copy of the grand list of real property of each county, as it shall stand upon the duplicate of that year. County auditor's return to auditor of state.

SEC. 51. If the county treasurer shall be unable to collect, by distress, or otherwise, the taxes which have been, or hereafter shall be assessed upon any person or corporation, or on any executor, administrator, guardian, receiver, accounting officer, agent or factor, such treasurer shall apply to the clerk of the court of common pleas in his county, at any time after his annual settlement with the county auditor, and said clerk shall cause a notice to be served upon such person, corporation, executor, administrator, guardian, receiver, accounting officer, agent or factor, requiring him forthwith to show cause why he should not pay such taxes; and if he shall fail to show a sufficient cause, said court, at the term to which said notice is returnable, shall enter a rule against him for the payment of such How county treasurer shall proceed, when unable to collect taxes.

taxes, and the cost of such proceeding, which rule shall have the same force and effect as a judgment at law, and be enforced by attachment or execution, or such process as may be directed by the court.

County treasurers to attend one day in each township.

SEC. 52. That previous to the first day of November in each year, the treasurers of the several counties shall attend one day, at the place of holding the election, in each township of their respective counties, for the purpose of receiving taxes.

COUNTY BOARDS FOR THE EQUALIZATION OF REAL PROPERTY.

County boards of equalization.

SEC. 53. The county auditor, the county surveyor, the county commissioners, and the district assessors, or a majority of them, shall form a county board for the equalization of the real property of their county, with the exception of the real property in the city of Cincinnati, which shall be equalized by a special board, as hereinafter provided. They shall meet on the first Tuesday after the first Monday of September, one thousand eight hundred and fifty-three, and every sixth year thereafter, at the auditor's office, in their several counties, when the county auditor shall lay before them the returns of the real property, made by the several district assessors of such county, with the additions he shall have made thereto, and having each taken an oath fairly and impartially to equalize the value of the real estate of such county, agreeably to the provisions of this act, they shall immediately proceed to equalize such valuation, so that each tract or lot shall be entered on the tax list at its true value; and for this purpose they shall observe the following rules:

Time of meeting and duties.

1st. They shall raise the valuation of such tracts and lots of real property, as, in their opinion, have been returned below their true value, to such price or sum as they may believe to be the true value thereof, agreeably to the rules prescribed by this act, for the valuation thereof.

2d. They shall reduce the valuation of such tracts and lots, as, in their opinion, have been returned above their true value, as compared with the average valuation of the real property of such county, having due regard to the relative situation, quality of soil, improvements, natural and artificial advantages, possessed by each tract and lot.

3d. They shall not reduce the aggregate value of the real property of the county, as returned by the assessors, with the additions made thereto by the auditor, as hereinbefore required; the county auditor shall keep an accurate journal or record of the proceedings and orders of said board.

Special board for Cincinnati

SEC. 54. There shall be a special board for the equalization of the real property in the city of Cincinnati, to be com-

posed of the county auditor, and six citizens of said city, to be appointed by the city council; said board shall meet at the auditor's office in Cincinnati, on the fourth Monday of October, one thousand eight hundred and fifty-three, and every sixth year thereafter, and shall have power to equalize the value of the real property within the city of Cincinnati, and shall be governed by the same rules, provisions, and limitations, that are prescribed in the preceding section for the government of the county boards for the equalization of property.

County auditors' abstract to auditor of state.

SEC. 55. Each county auditor shall, on or before the first Monday of December, one thousand eight hundred and fifty-three, and every sixth year thereafter, make out and transmit to the auditor of state an abstract of the real property of each township in his county, in which he shall [set] forth—

1st. The number of acres, exclusive of town lots, returned by the several assessors in his county, with such additions as shall have been made thereto.

2d. The aggregate value of all such real property, other than town lots, as returned by the several assessors of his county, inclusive of such additions as shall have been made thereto, under the provisions of this act.

3d. The aggregate value of the real property in each town in his county, as returned by the several assessors, with such additions as shall have been made thereto.

STATE BOARD OF EQUALIZATION.

State board of equalization, their election.

SEC. 56. The state board of equalization shall consist of one member from each senatorial district of the state, except the first district, which shall be entitled to three members, all of whom shall have the qualifications of electors; and the qualified electors of each senatorial district, shall, at the October election, in the year one thousand eight hundred and fifty-three, and every sixth year thereafter, elect persons to serve as members of such board of equalization, in accordance with the provisions of this section; and the returns of the poll books and certificates of election shall be governed by the law regulating the election of senators; and in case of vacancy in such office, either by death, resignation, or otherwise, the governor of the state shall have power to appoint a person, who shall be a resident elector of the district so vacated, to fill such vacancy, as soon as he shall be informed thereof; the auditor of state shall, by virtue of his office, be a member of this board.

Time and place of meeting, oath and duties.

SEC. 57. The said board shall meet at Columbus on the first Monday of November, one thousand eight hundred and fifty-three, and every sixth year thereafter, and the members thereof shall each take an oath or affirmation, that he will, to the best of his knowledge and ability, so far as the duty de-

volves on him, equalise the valuation of real property among the several counties and towns in the state, according to the rules prescribed by this act for valuing and equalizing the value of real property; and having received from the auditor of state the abstracts of real property transmitted to him by the several county auditors, said board shall proceed to equalize the same among the several towns and counties of the state, in the manner hereinafter prescribed:

1st. They shall add to the aggregate valuation of the real property of every county which they shall believe to be valued below its true value in money, such per centum, in each case, as will raise the same to its true value in money.

2d. They shall deduct from the aggregate valuation of the real property of every county, which they shall believe to be valued above its true value in money, such per centum, in each case, as will reduce the same to its true value in money.

3d. If they shall believe that right and justice require the valuation of the real property of any town or towns in any county, or of the real property of such county not in towns, to be raised, or to be reduced, without raising or reducing the other real property of such county, or without raising or reducing it in the same ratio, they may, in every such case, add to, or take from the valuation of any one or more of such towns, or of property not in towns, such per centum as they shall believe will raise or reduce the same to its true value in money.

4th. They shall not reduce the aggregate value of all the realproperty of the State, as returned by the county auditors, more than ten millions of dollars.

5th. Said board shall keep a full record of their proceedings and orders.

DUTIES OF STATE AUDITOR.

Auditor of state to transmit statement to county auditors, &c.

SEC. 58. When the State board of equalization shall have completed their equalization of real property among the several counties, the auditor of state shall transmit to each county auditor, a statement of the per centum to be added to, or deducted from the valuation of the real property of his county, specifying the per centum added to, or deducted from the valuation of the real property of each of the several towns, and of the real property not in towns, in case an equal per centum shall not have been added to or deducted from each; and the county auditor shall forthwith proceed to add to or deduct from each tract or lot of real property in his county, the required per centum on the valuation thereof, as it stands, after the same shall have been equalized by the county board of equalization; adding, moreover, or deducting, in each case, any fractional

sum of less than fifty cents, so that the value of any separate tract or lot, shall contain no fraction of a dollar.

His annual notice to county auditors

SEC. 59. The auditor of state shall, on or before the fifteenth day of July, annually, give notice to each county auditor, of the rates per centum required by the general assembly, to be levied for the payment of the principal and interest of the public debt, for the support of common schools, for defraying the expenses of the state, and for such other purposes as shall be prescribed by law; which rates or per centum shall be levied by the county auditor on the taxable property of each county on the duplicate, and shall be entered in one column, and denominated state taxes.

ANNUAL COUNTY BOARD OF EQUALIZATION.

Annual county board—powers and duties.

SEC. 60. There shall be an annual county board for the equalization of the real and personal property, and moneys and credits, in each county, exclusive of the city of Cincinnati, to be composed of the county commissioners and county auditor, who shall meet for that purpose at the auditor's office in each county, on the second Wednesday of May, annually. Said board shall have the power to hear complaints, and to equalize the the valuation of all real and personal property, moneys and credits, within the county, and shall be governed by the rules prescribed in the fifty-third section of this act, for the government of county boards for the equalization of real property; Provided that said board shall not reduce the value of the real property of the county, below the aggregate value thereof, as fixed by the State board of equalization, nor below its aggregate value on the duplicate of the preceding year, to which shall be added the value of all new entries and new structures, over the value of those destroyed, as returned by the several township assessors for the current year.

Annual special board for Cincinnati.

SEC. 61. There shall be a special board for the equalization of the real and personal property, moneys and credits, in the city of Cincinnati, to be composed of the county auditor, and six citizens of said city, to be appointed by the city council; said board shall meet annually, at the auditor's office in Cincinnati, on the second Monday of May, and shall have power to equalize the value of the real and personal property, moneys and credits, within the city of Cincinnati, and shall be governed by the same rules, provisions and limitations, that are prescribed for the government of the county boards, for the equalization of real and personal property, moneys and credits; Provided, that said board shall not be authorized to extend its session beyond the first Monday in June, in each year.

Further duties of annual county boards.

SEC. 62. The several county auditors shall lay before said boards of equalization, the valuation of the several tracts and lots of real property in their county, as the same were entered on the duplicate of the preceding year, or as fixed by the State board of equalization, and of those returned by the assessors of the several townships, for the current year, with such maps, returns, lists and abstracts, as are in their offices; and each board shall keep a regular journal of its proceedings, which shall be deposited with the auditor of the county; and the county auditor shall add to or deduct from the value of any tract or lot of real property, or of any district, township, or town, such sum or per cent. as shall have been ordered by the board of equalization. And said board shall, also, at the same time, hear complaints, and equalize the assessments of all personal property, moneys and credits, new entries, and new structures, returned for the current year by the township assessors; and said board shall have power to add to or deduct from the valuation of the personal property, or moneys, or credits, of any person returned by the assessors, or which may have been omitted by him, or to add other items, upon such evidence as shall be satisfactory to said board, whether said return be made upon oath of such person or upon the valuation of the assessor; but when any addition shall be ordered to be made to any list returned under oath, a statement of the facts on which such addition was made, shall be entered on the journal of the board; and when any reduction shall be ordered to be made in the amount of personal property or moneys and credits of any person, whether such return be made by such person or by the assessor, a statement of the facts on which such reduction was made, shall be entered on the journal of the board.

DUTY OF COUNTY AUDITORS AS TO MAKING TAX LISTS AND DUPLICATES, AND ASSESSING TAXES.

County Auditors' tax lists and duplicates.

SEC. 63. Each county auditor shall make out, in a book to be prepared for that purpose, in such manner as the state auditor shall prescribe, a complete list or schedule of all the taxable property in his county, and the value thereof, as equalized, arranged in the form following:

Each separate tract of real property in each township of his county, other than town property, shall be contained in a line or lines opposite the name of the owner or owners which shall be arranged in alphabetical order.

Each separate lot or tract of real property, in each town, shall be set down in a line or lines opposite the name of the owner or owners, arranged in alphabetical order.

The value of personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of each person, company or corporation, within each township, shall be set down in a column opposite the name of the owner, person, or corporation, in whose name the same is listed; the names of persons in each township who are not residents of any incorporated town, shall be set down in alphabetical order in one list; and the names of persons who are residents of any incorporated town, shall be entered in another list, in alphabetical order.

County auditors' duties as to banks.

SEC. 64. It shall be the duty of the Auditors of the several counties in which one or more banking companies may be situated, upon receiving returns of their notes and bills discounted, and all other moneys, effects, or dues, as provided in the nineteenth section of this act, to enter the same for taxation upon the grand duplicate of the proper county, and upon the city duplicate for city taxes, in cases where such city tax is not returned upon the grand duplicate, but is collected by city officers, which amount so returned and entered, shall be taxed for the same purposes, and to the same extent that personal property is now or may be taxed, in the place where such bank or banking company is situated; and such tax shall be collected and paid over in the same manner that taxes on other personal property are required by law to be collected and paid over.

As to the tax to be levied on each tract, &c.

SEC. 65. Each county auditor, after receiving from the auditor of state, and from such other officers and authorities as shall be legally empowered to determine the rates or amount of taxes to be levied for the various purposes authorized by law, statements of the rates and sums to be levied for the current year, shall forthwith proceed to determine the sums to be levied, upon each tract and lot of real property, adding the taxes of any previous year, that may have been omitted, and upon the amount of personal property, moneys and credits, listed in his county, in the name of each person, company or corporation, which shall be assessed equally on all real and personal property, subject to such taxes, and set down in one or more columns, in such manner and form as the auditor of state shall prescribe; and in all cases where the whole amount of taxes upon the personal property, moneys and credits of any person, shall not amount to ten cents, the auditor shall not enter the same upon the duplicate, if such person has no other taxable property.

Township assessors may appoint assistants.

SEC. 66. Any district or township assessor, who shall deem it necessary, to enable him to complete, within the time prescribed by this act, the listing and valuation of the property, moneys and credits, of his district, township or ward, may, with the approbation of the county auditor, appoint some well qualified citizen of his county or township, as the case may be, to

act as an assistant, and assign to him such portion of his district or township as he shall think proper; and each assistant, so appointed, shall, within the division of such district or township assigned him, under the direction of the assessor, after giving bond and taking an oath or affirmation as prescribed in this act, perform all the duties enjoined upon, vested in, or imposed upon assessors by the provisions of this act.

Pay of district assessors, and members of county and state boards.

SEC. 67. Each district assessor, and each member of the county boards of equalization, shall be entitled to receive for each day necessarily employed in the performance of the duties enjoined on him by this act, such sum as the commissioners of his county shall allow, not exceeding two dollars, to be paid out of the county treasury, on the order of the county auditor; each member of the state board of equalization shall receive for each day he shall attend on the sessions of said board, three dollars, and the like sum for every twenty-five miles he shall necessarily travel in going to and returning from Columbus, to be paid out of the state treasury, on the order of the auditor of state.

Tax for road purposes.

SEC. 68. The county commissioners shall, at their annual meeting in March, determine the amount of tax to be levied for that year for road purposes, and any other officers or authorities authorized by law to assess a tax for road purposes, shall also determine annually the amount thereof, at any of their meetings previous to the first Monday of April in each year, and make return thereof to the county auditor, on or before the tenth day of April; and the auditor of each county shall assess the same upon the duplicate of the property for the current year, any thing in any law to the contrary notwithstanding; and shall also, on or before the tenth day of June next, after the determination of the amount of such tax or taxes by the authorities aforesaid, make out and transmit to the township clerks of his county, lists of such road taxes.

Tax for county, bridge, public building, poor, public debt, and school purposes.

SEC. 69. The commissioners of each county shall, at their March or at their June session, annually, determine on the amount to be raised for ordinary county purposes, for bridges, for public buildings, for the support of the poor, for interest and principal on the county debt, and for the support of common schools. The commissioners, however, shall set forth upon the record of their proceedings, specifically, the amount to be raised for each of the above defined purposes; the county auditor shall carefully ascertain the net amount collected for each purpose, under said levy; and it shall not be lawful to use any specific fund for any other purpose than the one for which the same was specially levied.

For township, &c., purposes.

SEC. 70. The trustees of the several townships in each county, shall, on or before the fifteenth day of June, annually, determine the amount necessary to be raised in their townships, respectively, for ordinary township purposes, for the payment of legal and just claims against such township, and

for the support of the poor; but the road tax shall be determined at the time, and in the manner prescribed in the preceding section; the levy for said purposes shall be specific, and so entered upon the record of the proceedings of said trustees, and certified to the county auditor, who shall levy the same on the duplicate; and when settlement shall be made with the county treasurer, he shall carefully ascertain the net amount collected for each purpose; and such specific fund shall not be used for any other purpose than the one for which the same was specifically levied.

Town and corporation purposes.

SEC. 71. All city and town corporations shall annually determine on the amount to be raised for any purpose for which such city or town corporation shall be authorized to assess a tax, and shall certify the same to the county auditor, on or before the fifteenth day of June, to be by him placed on the duplicate, to be collected by the county treasurer as other taxes are collected; Provided, that nothing herein shall compel any town, whose charter authorizes its taxes to be otherwise collected, to make such return to the county auditor. Every such city or town corporation shall specify upon its record the amount required for each purpose, and such specific funds shall not be used for any other purpose than the one for which the same was specifically levied; Provided, however, that the aggregate amount levied by any city or town corporation, for any year, shall not exceed a tax of five mills on the dollar of the taxable property in such incorporated town or city, unless in such incorporated town there shall be less than one hundred thousand dollars in value of property entered upon the duplicate for taxation, in which case the tax shall not exceed eight mills on the dollar; and provided further, that such limitations shall not extend to special or discriminating local taxes, which city or town corporations are or may be authorized to levy upon any lots, blocks or squares, in such city or town, which special or discriminating local taxes by law required to be otherwise collected, shall not be placed on the duplicate.

Lien of the State for taxes.

SEC. 72. The lien of the State for the taxes levied for all purposes in each year, shall attach to all real property subject to such taxes, on the first day of June, annually, and shall continue until such taxes, with any penalty which shall accrue thereon, shall be paid; and all personal property subject to taxation, shall be liable to be seized and sold for taxes.

Delinquent lists and taxes.

SEC. 73. The delinquent lists shall not, hereafter, be returned to the office of the Auditor of State, but shall be recorded by the county auditor, immediately after his annual settlement with the county treasurer, an abstract of which, in such form as the Auditor of State shall prescribe, shall be sent to his office with the settlement sheet of the county treasurer; and no taxes returned delinquent, shall be paid into the State treasury, except by the county treasurers, after the fifteenth

day of April, eighteen hundred and fifty-two; and in making out the duplicate of each year, all tracts of land and lots returned delinquent or forfeited to the State, shall be again entered on the duplicate, and the taxes on such tract or lot, including the taxes of the current year, shall be charged thereon, with thirty per cent. penalty, on the amount charged on the duplicate of the preceding year.

Auditor of State to furnish county auditors with forms, &c.

SEC. 74. The Auditor of State shall, from time to time, prepare and transmit to the several county auditors, all such forms and instructions as he shall deem necessary to carry into effect the provisions of this act; and with the advice of the Attorney General, he shall decide all questions which may arise as to the true construction of this act, or in relation to any tax levied, or proceeding under the same, subject, however, in all cases, to an appeal to the supreme court.

County auditors' forms and instructions to township assessors.

SEC. 75. County auditors shall, before the fifteenth of April, annually, make out the blank forms and instructions for the township assessors, and forward them to the township clerks, as required by the fifteenth section of the act to create the office of township assessor, passed March twentieth, one thousand eight hundred and forty-one; and the auditors of counties, and assessors of townships and wards, shall, in all respects, except as hereinbefore provided, be governed by the rules and regulations contained in the several acts prescribing their duties.

Penalty on county auditors and township assessors, for neglect of duty or malfeasance in office.

SEC. 76. Every county auditor, and every district and township assessor, who shall, in any case, refuse or knowingly neglect to perform any duty enjoined on him by this act, or who shall consent to or connive at any evasion of its provisions, whereby any proceeding required by this act shall be prevented or hindered, or whereby any property required to be listed for taxation shall be unlawfully exempted, or the valuation thereof be entered on the tax list at less than its true value, shall, for every such neglect, refusal, consent or connivance, forfeit and pay to the State not less than two hundred, nor more than one thousand dollars, at the discretion of the court, to be recovered before any court of record in the State.

Acts repealed.

SEC. 77. The act for levying taxes on all property in this State, according to its true value, passed March second, one thousand eight hundred and forty-six, the act to amend the same, passed February eighth, one thousand eight hundred and forty-seven, the act to provide for the assessment of personal property, and the valuation of new entries and new structures, passed January twenty-second, one thousand eight hundred and forty-eight, and the act passed February twenty-second, one thousand eight hundred and forty-eight, further to amend the act for levying taxes on all property in this State according to its true value, and an act to tax banks and bank and other stocks, the same as other property is now taxable by the laws of this State, passed March twenty-first, one thousand eight

hundred and fifty-one, and all parts of laws superseded by this act, and inconsistent therewith, are hereby repealed.

SEC. 78. This act shall take effect and be in force from and after its passage.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 13, A. D. 1852.

AN ACT

Regulating the sale of Poisons.

Apothecaries, druggists, &c.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall not hereafter be lawful for any apothecary, druggist, or other person in this State, to sell or give away any article belonging to the class of medicines, usually denominated poisons, except in compliance with the restrictions contained in this act.

Precautions in selling poisons.

SEC. 2. That every apothecary, druggist, or other person, who shall sell or give away, except upon the prescription of a physician, any article or articles of medicine belonging to the class usually known as poisons, shall be required: 1st. To register in a book kept for that purpose, the name, age, sex and color of the person obtaining such poison. 2d. The quantity sold. 3d. The purpose for which it is required. 4th. The day and date on which it was obtained. 5th. The name and place of abode of the person for whom the article is intended. 6th. To carefully mark the word "poison" upon the label or wrapper of each package. 7th. To neither sell or give away any article of poison to minors of either sex.

Arsenic.

SEC. 3. That no apothecary, druggist, or other person, shall be permitted to sell or give away any quantity of arsenic less than one pound, without first mixing either soot or indigo therewith, in the proportion of one ounce of soot or half an ounce of indigo, to the pound of arsenic.

Penalty for violation of this act.

SEC. 4. That any person offending against the provisions of this act, shall be deemed guilty of a misdemeanor, and upon

conviction thereof, shall be fined in any sum not less than twenty, nor more than two hundred dollars, at the discretion of any court of competent jurisdiction.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 13, 1852.

AN ACT

To regulate the sale of School lands, and the surrender of permanent leases thereto.

Section Sixteen school lands may be sold.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That all those lands granted by the Congress of the United States for school purposes, known as Section Sixteen, together with all such as have been granted in lieu of said Section Sixteen, may be sold, and such sale shall be regulated by, and conducted according to the provisions of this act.

How vote of the citizens shall be taken.

SEC. 2. In case there has been no vote taken for the sale of any such lands, the trustees of any original surveyed township, to which such lands may belong, shall, at least thirty days prior to taking of any such vote, cause not less than eight notices to be posted up in as many of the most public places of such township, notifying the legal voters resident therein, to meet at some convenient place and time therein specified, and then and there cast their ballots, for or against the sale of any such lands belonging to such township.

Same subject.

SEC. 3. The trustees of the township shall preside at the taking of such ballots, and shall appoint two clerks, who shall keep two poll books containing the names of the voters, and the result of the ballot, which poll books shall be signed by the trustees and clerks; and, in case such ballot shall result in favor of a sale, the trustees shall, within ten days after such election, deposit one of said poll books with the auditor of the county, within which such lands (or the greater portion thereof) may be situated, with a copy of the notice given, and the affidavit of one or more of the trustees, stating the manner of giving said notices, the time and place of putting up the same; which

notices, affidavit, and poll book, shall be by said auditor copied into a book for that purpose to be provided; and when so recorded, such record shall be proof of the facts therein stated.

Trustees to petition court of common pleas.

SEC. 4. When such record has been made, the trustees of such township, to which said lands belong, shall file a petition in the court of common pleas of the county within which said lands (or the greater portion of them) may be situate, setting forth the giving of said notice, the taking of said ballot, the result of the same, the filing and recording of the aforesaid papers in the office of the auditor of the proper county, and asking the court to appoint three disinterested freeholders, not resident of the township in which the land may be situated, to divide and value the same in money.

Court to appoint appraisers

SEC. 5. If such court shall be satisfied that the statements made in the petition are true, the court shall appoint three persons to divide and appraise the same, according to the prayer of such petition; and said appraisers, after being first duly sworn before some officer authorized to administer oaths, and taking to their aid, if they think necessary, the county surveyor, shall proceed to divide said lands into such parcels or tracts, as in their opinion will be best for the sale thereof, and return in writing such divisions, suitably numbered and described, to the said court, with a just valuation of each separate division, in money.

Returns, &c., to be recorded.

SEC. 6. The court, on such return being made, and having been by said court examined, and found in all things regular, just and fair, shall certify the same, and order the same to be entered of record, together with the petition, and all the proceedings therein had; a copy of which the trustees shall cause to be filed in the office of the auditor of the proper county, who shall copy the same into the book containing the notice, affidavit and poll book, aforesaid, and immediately following the same.

County auditor to advertise sale

SEC. 7. The auditor of the county, on the recording of said proceedings, shall forthwith cause a notice to be published, in some newspaper of general circulation in said county, for six consecutive weeks, before the day of sale; and, at the same time, by posting up copies of such notice, in six of the most public places in said county, two of which shall be in the township where the lands are situate, and one at the court house, containing a description of the lots or lands to be sold, the valuation thereof, and the time when said land shall be offered at public auction, by said auditor, at the door of the court house, at not less than the appraised value thereof; one-twelfth of the purchase money to be paid at the time of sale, and the balance in eleven annual installments of equal amount, with annual interest thereon; and said auditor shall, at such time and place, proceed to offer the same to the highest bidder,

at or over the appraisement, and on the terms stated in said notice.

Sale may continue to be offered.

SEC. 8. In case said lands, or any part thereof, shall not be sold, as aforesaid, the auditor may continue to offer the same, on the application in writing, of the trustees of the township to which said lands may belong, at any future time or times, until they shall be sold, having first given the like notices herein provided, to be given on the first sale thereof; Provided, that no sale shall be had on any valuation made more than two years prior to the day of the sale.

When school lands may be revalued.

SEC. 9. The court of common pleas aforesaid, is hereby required, on the petition of the trustees aforesaid, setting forth the former appraisement, and the subsequent proceedings thereto, and that two years have elapsed, and the land remaining unsold, to direct a new valuation of the same, to be made in the manner hereinbefore directed, unless said court, on testimony, shall be satisfied that the former appraisement is a just and fair valuation of said lands; in that case, the court shall make an entry of the fact, which entry shall be certified to, and recorded by the auditor, in manner aforesaid, and shall have the same effect as a new appraisement.

In cases of permanent leases, &c.

SEC. 10. In case said lands are held under permanent leases, or leases for ninety-nine years, the legal or equitable holder of any such lease, wishing to surrender the same, and to purchase the fee of the premises so held by lease, may, with the consent of the trustees of the original township to which such lands belong, file his petition in the court of common pleas of the county in which the largest portion of such lands are situate, setting forth a description of the premises so held, the state of his lease, or his title thereto, that he is desirous of surrendering such lease, and becoming the owner of the premises in fee, and asking the court to appoint three disinterested freeholders of the county, and not resident of the township wherein such lands are situate, to value the same; and the court, on being satisfied of the truth of the facts set forth in such petition, shall appoint such appraisers, who shall proceed, under oath, to make a just valuation of the premises in money, without reference to the improvements made thereon, under and by reason of said lease, and shall return such valuation in writing, to said court; and the said court, if it shall be satisfied that said valuation is just, shall confirm the same, and order it, with the petition and other proceedings therein, to be recorded; Provided, that before the trustees of any original surveyed township shall consent to the surrender of any lease, as provided in this act, they shall cause the proposition to be submitted to the electors of said township, at an election to be held and conducted in conformity to the provisions of the second section of this act; and if, at such election, a majority of the electors shall vote for such surren-

der, then, and not otherwise, said trustees shall consent to the surrender, in manner and form as herein provided.

Same subject.

SEC. 11. Any such lessee, on producing to the auditor of the proper county, within one year after the making of the same, a certified copy of such petition and appraisement, and confirmation, shall be permitted, by endorsement thereon, attested by the auditor, to release to the state of Ohio all his interest, title and claim, in and to such lease, for the benefit of the the township to which the same may belong; which certified copy of said record and said release, shall be recorded in a book for that purpose to be provided.

Payments to county treasurers, &c

SEC. 12. The purchaser of any such lands, at any auditor's sale, or the lessee of any such land held under such lease, on executing his release as aforesaid, shall each, forthwith, pay to the treasurer of the county, one-twelfth of the purchase money in the first case, and one-twelfth of the valuation in the second, and take the treasurer's receipt therefor; and the auditor, on receiving the treasurer's receipt for said first installment, shall give to said purchaser or lessee a certificate containing the name of the purchaser or lessee, a description of the premises, the number, amount and time of payment of the subsequent installments, and that said purchaser orlessee, their heirs or assigns, on the punctual payment of the sums still due, with annual interest up to the time of payment, shall be entitled to receive a final certificate from such auditor; Provided, that such lessee shall produce to the auditor, the certificate of the proper officer, that all rents due on such premises have been paid up to the time of surrendering said lease.

Same subject.

SEC. 13. Any person wishing to pay any money under the provisions of this act, in part or full payment of any such lands, shall first obtain the certificate of the auditor, of the amount due, or to be paid; and on the presentation of the same, the treasurer is authorized to receive the amount therein specified, and shall give to the person paying the same, a certificate directed to the auditor, of the payment of said sum of money; and the auditor, on the presentation of said certificate, shall give to such person a receipt therefor, credit him with the amount in his books, and charge the treasurer therewith.

County auditor to report sales to Auditor of State.

SEC. 14. The county auditor shall keep an account with the county treasurer, of all sales made, and leases surrendered, and moneys paid thereon, by each purchaser or lessee, and report the same to the auditor of state, on the first day of February, May, August, and November, in each and every year; and from the time of such report, the state shall be liable to pay interest on all such sums so reported as paid; and the treasurer of state, on receiving a certified copy of the account from the auditor of state, shall be authorized immediately to draw said money from the county treasurers.

In case of failure of purchaser to pay, lands to be resold, for cash.

SEC. 15. If any such purchaser or lessee shall fail to make any payment on any tract of land, for the space of twelve months after the time the same shall become due and payable, the auditor of the proper county shall forthwith proceed to sell such tract or tracts of land, with all the improvements thereon, at the door of the court house, to the highest and best bidder therefor, in cash, having first given notice of the time and place of such sale, containing a description of the lands, and the money due and to become due thereon, by publishing the same in some newspaper of general circulation in said county, for six consecutive weeks before the day of sale; and on such sale, no bid shall be entertained for a sum which will not be sufficient to pay all the purchase money due the state, and all expenses incident to such sale; and in case said premises cannot be sold for that amount, they shall revert to the state in trust for said township, and be sold in the manner hereinbefore provided for the sale of such lands not under permanent leases, or leases for ninety-nine years.

Purchaser to receive certificate

SEC. 16. When said lands sell as aforesaid, the purchaser shall pay to the treasurer of the county the amount so bid for said premises; and on producing to the auditor the treasurer's receipt for such payment, the auditor shall give him a final certificate, stating the fact of such sale, the name of the purchaser, the description of the lands sold, the amount for which sold, the payment of the same, and that the purchaser is entitled to receive, from the State of Ohio, a deed in fee simple for the same, on producing to the proper officer this certificate.

Final certificate.

SEC. 17. When any purchaser or lessee, their heirs or assignees, shall have made payment in full, the auditor shall give to such person a final certificate, containing, in addition to the former one, the fact of the payment in full, and that said person is entitled to receive from the State of Ohio, a deed in fee simple for said premises, on the presentation of this certificate to the proper officer or officers.

Deed from the state.

SEC. 18. The auditor of state, upon the filing of any such final certificate in his office, shall make out the draft for a deed therefor, and deliver the same, with such final certificate, to the governor of the state, who shall sign said deed, and cause the same to be sealed with the great seal of the state, and countersigned and recorded by the secretary of state, and by him delivered to the grantee, on demand.

Excess of money, how disposed of.

SEC. 19. All excess of moneys made on any sale of delinquent lands as aforesaid, after paying all sums due, interest and costs, shall be paid, on demand, to such delinquent owner, his heirs or assigns, from the county treasury, on the order of the auditor, if such demand be made within one year from the time of such sale; and if not so demanded, it shall be paid into the state treasury; and, unless the same shall be demand-

ed within one year after the same shall have been paid into the state treasury, it shall be applied for the same uses as the lands are subject to.

Fees.

SEC. 20. The fees for services under this act, shall be as follows: The court shall tax such fees on any petition filed in the same, as are allowed for similar services on proceedings in chancery. The county auditor to be allowed one dollar and fifty cents on each sale made by him; for each certificate, fifty cents; for each receipt, six cents, to be paid by the purchaser, and the same fees for recording as is allowed to county recorders. to be paid out of the first moneys paid in as interest or rents, on such sale or surrender. All printers' fees for advertising, shall be paid out of the county treasury, on the order of the auditor, and refunded out of the first moneys received on such sale, as interest or rents. The cost in court, shall, in case of a petition by the trustees, be paid out of the county treasury, on the order of the county auditor, and refunded out of the first moneys received from the sale, as interest or rents; in case of a lessee being petitioner, all costs shall be paid by him.

Acts repealed.

SEC. 21. The act entitled "An act to provide for the sale of Section Sixteen, granted by Congress for the use of schools," passed January 29, 1827—The act entitled "An act to extend the time of payment to purchasers of school lands in this state," passed January 3, 1843—The act entitled "An act to regulate the sale of Ministerial and School lands, and the surrender of permanent leases thereto," passed February 2, 1843—The act entitled "An act to amend an act entitled an act to extend the time of payment to purchasers of School lands in this state," passed March 6, 1844—The act entitled "An act to amend the act to regulate the sale of Ministerial and School lands, and the surrender of permanent leases thereto, passed February 2, 1843," passed March 12, 1844—The act entitled "An act to fix the minimum price of the sales of School lands," passed March 4, 1845; And the act entitled "An act to amend an act entitled an act to extend the time of payment to purchasers of School lands in this state, and an act amendatory thereto," passed February 1, 1847, be and the same are hereby repealed; Provided, such repeal shall not impair, or in any manner affect any rights or interests acquired under any of said acts.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 16, 1852.

AN ACT

To provide for the State Printing.

Secretary, Auditor and Treasurer of State to advertise for proposals for printing, &c., until first Monday in November, 1852.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the Secretary, Auditor and Treasurer of State, shall, immediately on the passage of this act, give notice in two newspapers printed in the city of Columbus, two in the city of Cincinnati, and two in the city of Cleveland, for two consecutive weeks, that sealed proposals will be received at the office of the Secretary of State, until the fifteenth day after the first publication of said notice, for the executing of the several branches of the State Printing, in separate contracts, as hereinafter specified, until the first Monday in November, one thousand eight hundred and fifty-two; and the Secretary, Auditor, and Treasurer, shall, during the first week in May, one thousand eight hundred and fifty-two, and biennially thereafter, give notice as above prescribed, for the period of sixty days, for the executing of the several branches of the State Printing, for the term of two years from the first Monday of November next thereafter; which proposals shall distinctly and specifically state the price per thousand ems for the composition of all bills, resolutions, or other matter, that may be ordered to be printed in bill form; the price per thousand ems for the composition of all pamphlets or reports ordered to be printed in pamphlet form, the price per thousand ems for the composition of the Journals of the Senate and House of Representatives, the price per thousand ems for the composition of the General Laws, the price per thousand ems for the composition of the Local Laws, the price per token for press work of all bills, resolutions, or other matter ordered to be printed in bill form, the price per token for press work of all pamphlets, reports, or communications, to be printed in pamphlet form, the price per token for press work for the journals of the Senate and House of Representatives, the price per token for the press work of the General and Local Laws, the price per token for press work of the volumes of Legislative Documents, and the price per thousand ems for the composition and the price per quire for press work of all blanks and circulars for the Executive Officers, at which the bidder is willing to take the contract bid for; and in such notice as prescribed in this act, the Secretary, Auditor and Treasurer of State, shall publish an abstract of this law, stating distinctly each item to be bid for, the character of the work and the mode of allowing com-

Ditto biennially thereafter.

Specifications.

pensation for the same; and the said Secretary, Auditor and Treasurer, or any two of them, shall, within two days after the expiration of such notice, proceed to open all such proposals by them received, and they shall, on careful examination and strict computation, give the contract for each of the hereinafter named branches of State Printing, to the lowest bidder therefor, who will comply with all the provisions of this act; Provided, that if two or more bidders shall propose for the same contract, and the proposals of one be lower on composition, and the proposals of another be lower on press work, then the said Secretary, Auditor and Treasurer, taking to their assistance, a disinterested practical printer, shall proceed to compute the same, by taking as a basis, the aggregate number of ems, and the aggregate number of tokens of press work, of the same kind of printing for the last session of the General Assembly preceding, and they shall give the contract to the lowest bidder under the computation aforesaid; And provided, further, that nothing herein contained shall be construed so as to prevent the same person from becoming contractor for two or more branches of the public printing, if he shall be the lowest bidder therefor; but the said Secretary, Auditor and Treasurer of State, shall, in no case whatever, receive, or take into consideration, the bid of an irresponsible person; Provided, however, no person shall be deemed irresponsible, who shall tender to the executive officers aforesaid, along with his bid, satisfactory assurance, subscribed by his proposed security, that he will execute the bonds required by the tenth section of this act.

Bids to be opened and contracts awarded, &c.

Irresponsible bidders.

Sec. 2. That the printing of all bills for the two houses of the General Assembly, together with such resolutions and other matters as may be ordered by the two houses, or either of them, to be printed in bill form, shall be let in one contract; the printing of the Journals of the Senate and House of Representatives, and of such reports, communications and other documents, as enter into and make a part of the journals, shall be let in another contract; the printing of all Reports, Communications, and other documents that may be ordered to be printed in pamphlet form, by the General Assembly, or either branch thereof, except such as enter into and make a part of the journals, together with the volume of Public Documents, shall be let in another separate contract; the printing of the General and Local Laws and such Joint Resolutions as may be directed by the General Assembly to be printed therewith, shall be let in another separate contract; and the printing of all Blanks and Circulars necessary for the use of the Executive Officers of the state, shall be let in another separate contract.

Classification of contracts.

Sec. 3. The bills shall be printed in folio foolscap form, on small pica type, each page to contain not less than twen-

Bills.

ty-five lines of solid matter of the usual length; with a pica blank only in each space between the lines; and in counting the composition upon bills, the same shall be measured as solid matter, and every necessary fraction of a page shall be counted as a full page, but no entire blank page shall be counted or charged for.

Journals.

SEC. 4. The Journals shall be printed in medium octavo form, on neat long primer type, and in as close and compact order as is consistent with good workmanship, without unnecessary blank or broken pages, each to contain as near as may be fifteen hundred ems, including head and foot lines.

Documents and Reports.

SEC. 5. The volumes of Public Documents, and all Reports, Communications and other documents ordered to be printed in pamphlet form, shall be printed on the same kind of type, and the pages be of the same size, as specified for the journals in the preceding section; said Documents to be printed in pamphlet form, shall be printed in close compact order, without title pages, unnecessary blanks or open spaces; the volumes of Public Documents shall contain nothing that shall have been inserted in the laws or journals of the same year, except the annual report of the auditor and treasurer of state; and the various reports, communications, and other documents proper to be inserted therein, shall follow each other in as close compact order as is consistent with good workmanship, without the intervention of unnecessary blanks or separate title or half title pages; and the paging thereof shall be consecutive; and at the conclusion there shall be an index, to be made out by the printer, referring to the particular page at which each separate document commences. In all cases where any document is printed in pamphlet form by order of the General Assembly, or either branch thereof, by the contractor for the printing of the volumes of public documents, which shall also be inserted in the volume of public documents, and in all cases where any such document is printed in pamphlet form by the contractor for the printing of the journals, which shall also be printed in the journals, but one charge shall be made or allowed for the composition thereof.

Laws.

SEC. 6. The Laws shall be printed in royal octavo form, on good small pica type, the pages to be of the same size and form as those in the laws of the session of one thousand eight hundred and fifty, and one thousand eight hundred and fifty-one, with similar marginal notes to the general laws.

Blank pages, tabular statements, rule and figure work.

SEC. 7. That in composition, all pamphlets, laws, journals, and volumes of public documents, every necessary fraction of a page shall be counted as a full page, but no entire blank page shall be counted or charged for; and if in any branch of the printing, tabular statements occur, which it shall be impracticable to print on the ordinary sized pages, the same shall be printed on tabular sheets of the necessary size, and the amount of com-

position on the same shall be ascertained by measuring the printed surface, and thereby ascertaining the number of ems; and for all rule and figure work, double price for composition shall be allowed, the same to be ascertained by strict measurement and count. But one charge shall be made for the composition of all documents ordered to be printed by both branches of the General Assembly, and no charge or allowance shall be made for composition when extra and additional copies are ordered to be printed.

The token.

SEC. 8. In charging and counting the press work, whether on bills, journals, laws, pamphlets, or volumes of public documents, the token shall consist of one hundred and twenty-five sheets, printed on both sides, or two hundred and fifty sheets printed on one side only.

Sheets to be delivered to Secretary of State.

SEC. 9. Each contractor for any branch of the State Printing, shall deliver over to the Secretary of State, or on his order, in the sheet, all copies ordered to be printed, in good order.

Notice, and bond of successful bidder.

SEC. 10. It shall be the duty of the Secretary of State to give immediate notice to the successful bidder, that his proposals have been accepted; and each successful bidder shall, within ten days after receiving such notice, enter into bonds, payable to the State of Ohio, in the sum of five thousand dollars, for each and every branch of the public printing so awarded to him, with at least two sufficient and approved sureties, conditioned for the faithful performance, pursuant to this act, of that branch or branches of the printing to which he has been adjudged the successful bidder; and if he shall fail so to give bond within ten days, then the contract shall be given to the next lowest bidder who will give bond as aforesaid.

Folding, stitching and binding.

SEC. 11. The folding of all bills, resolutions, pamphlets or documents, ordered to be printed, together with the stitching of the same, and the brochure covering of all documents ordered to be covered by the General Assembly, or either branch thereof, shall be let in one contract; and the folding, stitching and binding of the laws, journals, and volumes of public documents, shall be let in another contract.

Same subject.

SEC. 12. The secretary, auditor, and treasurer of state, at the same time and in the same manner as is prescribed in the first section of this act, shall give notice that sealed proposals will be received for the folding and stitching of all bills, resolutions, pamphlets or documents, ordered to be printed, and the brochure covering of all documents ordered to be covered, and for the folding, stitching and binding of the laws, journals, and volumes of public documents, which proposals shall specify the rate per hundred sheets for folding, the rate per hundred copies for stitching, all bills, resolutions, pamphlets or documents, the rate per hundred copies for brochure covering all documents ordered to be covered; and the rate per

hundred sheets for folding, the rate per hundred copies for stitching, and the rate per hundred copies for binding the laws, journals, and volumes of public documents, at which the contractor is willing to do the same; and each successful bidder to whom the contracts, or either of them, may be awarded, shall enter into bond, in the sum of two thousand dollars, in the same manner as is prescribed in the tenth section of this act, for the faithful performance of the same.

Style of binding.

SEC. 13. The binding of the laws, journals, and the volumes of public documents, shall be in the same style, and of the same materials, as of the volumes of laws, journals and documents of the session one thousand eight hundred and fifty, and one thousand eight hundred and fifty-one.

No half sheet to be counted.

SEC. 14. That in counting the folding and stitching of all bills, resolutions, pamphlets or documents, no half sheet shall be counted, charged for, or allowance made.

No extra charge for collating, drying and pressing.

SEC. 15. Folding, stitching, and binding, shall include the collating, drying and pressing, and no charge or allowance shall be made for collating, drying and pressing.

Files of printing to be preserved, &c.

SEC. 16. That each contractor for any branch of the public printing, shall file and preserve one copy of each document, or other matter by him printed for the state, which file he shall deposit, together with his accounts for printing, with the Secretary of State, on or before the first Monday in November, annually; in which account shall be specifically stated the various jobs performed, the number of ems composition in each, the extra charge, if any, for rule and figure work in each, the number of tokens of press work in each, designating whether ordered by the Senate, the House, or jointly by both, or by other officers or agents of the State, together with the kind and quantity of paper used for each job.

Files of binding, &c., to be preserved.

SEC. 17. Each contractor for the folding, stitching, covering and binding, shall file and preserve one copy of every document or other matter by him folded, stitched or bound, which file he shall deposit, together with his accounts for the same, with the Secretary of State, on or before the first day of November, annually; which account shall specifically state each item, as provided for in the twelfth section of this act, and the number of copies of each bill, resolution, pamphlet or document, folded, stitched, or covered, and the number of copies of laws, journals and documents, bound.

Secretary, Auditor and Treasurer shall examine and audit accounts.

SEC. 18. That on the filing of any account and vouchers, under the two last preceding sections, the Secretary, Auditor, and Treasurer of State, shall carefully examine such accounts, together with the vouchers therefor, and the orders for the same; and if any errors be found in such account by said examining officers, they shall immediately correct the same; and if they shall find any unnecessary blanks or increased number of pages, caused by stretching out of matter, or other device

of the printer, they shall deduct from the account of the contractor, double the amount of composition and press work charged for such unnecessary blank or increased number of pages, together with the additional amount of paper consumed thereby; and if any error shall be committed in executing any branch of the printing aforesaid, by which the sense or meaning may be altered, said examining officers shall deduct from the account of the contractor by whom the error was committed, the amount of compensation to which he would have been entitled for the composition and press work of the whole sheet in which such error shall be found, and also the value of all paper consumed in the printing of the sheet containing such error; but the said Secretary, Auditor, and Treasurer of State, shall in no case allow constructive charges, or any other than is specifically named in this act.

Bills, how paid.

SEC. 19. That after any account as aforesaid shall have been examined by the proper officers, and all errors and overcharges corrected, and proper deductions made therefor, pursuant to the foregoing section, said account shall be certified to be correct, by said examining officers, or any two of them; and when any account shall be so audited and certified, the Auditor of State shall draw a bill upon the treasury for the amount thereof, payable out of any moneys appropriated for that purpose.

Time allowed contractors to finish their work.

SEC. 20. The contractor for the printing of bills, resolutions, or other matter to be printed in bill form, shall promptly and without delay, execute all orders of the General Assembly, or either branch thereof, for the printing of all bills and resolutions; and all contractors under the provisions of this act, shall promptly and without unnecessary delay, execute all orders to them issued by the General Assembly, or either branch thereof, or the Executive Officers of the State; and the laws, journals, and volumes of public documents, shall be printed and delivered to the contractor for the folding, stitching and binding, on the order of the Secretary of State, within twenty days after the adjournment of the General Assembly; and said contractor shall, within twenty days after the receipt thereof, execute the folding, stitching and binding, and deliver to said Secretary of State the volumes so bound, under the penalty of a forfeiture of their bonds; Provided, however, that the said Secretary, Auditor and Treasurer of State, may, on good cause shown, by either of the contractors, extend the time, not exceeding ten days, for the executing of their several contracts.

Paper to be furnished by the State.

SEC. 21. The paper for the State Printing aforesaid, shall be provided by the State; and the Secretary of State shall, from time to time, as the same may be needed, deliver over to each contractor, suitable paper for the printing which he is required by his contract to do; and shall take and preserve, from each contractor, a receipt for all paper so delivered; and at

the annual settlement, each contractor shall deliver over to the Secretary of State, all paper which has not been used in the State Printing; and if any such paper shall have been wasted or converted to any other use, the contractor to whom the same shall have been delivered, shall be charged with the value thereof, together with the penalty of fifty per cent., and the amount shall be deducted from his account.

Copy to be furnished by Secretary of State.

SEC. 22. That the Secretary of State shall furnish a true and accurate copy of the laws, as they may be demanded by the printer thereof; and the clerks of the respective branches of the General Assemby shall each furnish to the printer, who is bound by his contract to print the same, copies of the journals, bills, reports, and other papers and documents, without unnecessary delay; and no contractor shall be accountable for any delay occasioned by the want of such copy.

SEC. 23. This act shall take effect and be in force from and after its passage.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 16, 1852.

AN ACT

To abolish the offices of Register and Receiver of the State Land Office at Defiance, to regulate the sale of lands at said office, and to create the office of Land Commissioner.

Offices of Register and Receiver abolished, and that of Commissioner created.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the offices of Register and Receiver of the State Land Office at Defiance, in this State, be and the same is hereby abolished; and immediately after the passage of this act, there shall be appointed by the Governor, by and with the advice and consent of the Senate, a Land Commissioner, who shall keep an office at Defiance, aforesaid, for the sale of all the lands of the State, which have heretofore been for sale at said Land Office, and now remains unsold.

Term, duties, &c., of Land Commissioner.

SEC. 2. That said Land Commissioner shall hold his office for and during the term of three years, and until his successor shall be appointed and qualified; and shall have all the

powers heretofore possessed by, and perform all the duties heretofore enjoined on both the said Register and Receiver, according to law; and before entering upon the discharge of the duties of his said office, the said Land Commissioner shall enter into a bond, with three or more sureties, freeholders of the State of Ohio, to be approved by the Governor of this State, payable to the State of Ohio, in the sum of twenty thousand dollars, conditioned for the paying over according to law of all moneys which may be received by said Land Commissioner in his official capacity, and for the faithful discharge of all and singular the duties of his said office; and if the said Land Commissioner shall at any time fail to give such bond with said sureties, or fail in making his returns and paying over moneys received by him in his official capacity, as required by law, his office shall be considered vacant, and it shall be the duty of the Governor to fill said office by appointment, with the advice and consent of the Senate, as prescribed in the first section of this act, if the General Assembly shall be in session at the time such vacancy occurs; and if the General Assembly shall not be in session at such time, then, and in that case, the Governor shall fill such vacancy by the appointment of some person to hold said office until the first session of the General Assembly succeeding such appointment, and until his successor is appointed and qualified; and the said Commissioner, appointed under any of the provisions of this act, before entering upon the duties of his said office, shall take and subscribe to an oath or affirmation, before competent authority, to discharge faithfully and to the best of his skill and ability, all the duties of said office; which oath or affirmation, shall be endorsed upon his bond aforesaid.

Compensation.

SEC. 3. That said Land Commissioner shall receive as a compensation for his services, the sum of three per centum on the amount of all moneys received at his said office in payments for lands sold by him as such Commissioner.

Transfer of books, papers, &c.

SEC. 4. That the Register and Receiver of the State land office at Defiance, at this time acting, shall deliver over all the books, papers, and other property belonging to their respective offices, to such person as may be appointed Land Commissioner, under this act.

Commissioner not to purchase or deal in lands.

SEC. 5. That any person holding the office of Commissioner, shall not purchase, or enter, or be in any manner concerned, either as principal or agent, directly or indirectly, in the purchase or entry of any lands subject to sale or entry, in said State Land Office; and any Commissioner violating the provisions of this section, shall, for every such offence, forfeit and pay the sum of two hundred dollars, to be recovered by action of debt, in the name of the State of Ohio, which action shall be brought in the county wherein said land office is situate; and the amount recovered in said action shall be paid into

the State Treasury, by the Prosecuting Attorney of such county; and it is hereby made the duty of such prosecuting Attorney, to prosecute in behalf of the State all actions under the provisions of this section, for which service he shall be allowed a reasonable compensation, to be audited and allowed by the auditor of State, and paid out of the money recovered in such action or actions.

Sales to non-settlers.

SEC. 6. That said lands shall be sold to any person not an actual settler, making the oath as hereinafter provided, at the appraised value thereof, heretofore made, or hereafter to be made in pursuance of law.

Sales to actual settlers.

SEC. 7. That said lands shall be sold to actual settlers, at fifty per cent. below their appraised value; Provided, that any applicant who applies to purchase or enter any of said lands at said reduction, shall, before any certificate or other evidence of purchase or entry is issued to him or her by said Commissioner, make and subscribe an affidavit, that it is bona fide his or her intention, within twelve months from and after said purchase, to enter upon and improve the tract so purchased, and that he or she has not made said purchase for the purpose of speculation merely, but for the purpose of securing a home for himself or herself and family; which affidavit shall be preserved by the Commissioner aforesaid, with the records of his office.

Who may take affidavits.

SEC. 8. That the affidavit required by the foregoing section, may be made and subscribed before said Commissioner, (who is hereby authorized to administer oaths in such case,) or before any officer having by law a general authority to administer oaths; for administering which oath, no fee shall be charged by said Commissioner.

In case of failure to pay purchase money.

SEC. 9. That no deed of conveyance from the State to said purchaser, shall be made and delivered, until such purchaser shall have actually entered upon and commenced improving the tract of land for which he or she holds a certificate of purchase; and if any purchaser shall refuse or neglect, within twelve months from and after the date of his or her certificate of purchase, to enter upon and improve the tract so purchased, then and in that case, such tract of land shall be forfeited, and shall revert to the State; Provided, however, that in case of the death of any such purchaser before the expiration of twelve months from the date of such purchase, the deed of conveyance from the state may issue to his or her legal heirs, without further improvement upon the tract.

Lands hereafter acquired, to be first offered for sale by Commissioner.

SEC. 10. That all lands not at this time sold or for sale at the State Land Office aforesaid, the title to which may hereafter be confirmed to the State of Ohio by the government of the United States, or proper department thereof, under the several acts of Congress granting lands to the state of Ohio or Indiana, for canal purposes, shall be first offered by said Commissioner

at public sale, in such manner as the Auditor of State may direct; after which, all lands offered at such sale and not sold, shall be subject to entry under the provisions of this act.

Land Commissioner's returns.

SEC. 11. The said Land Commissioner shall make return of his sales of the lands sold by him as such Commissioner, and pay over to the Treasurer of State all moneys in his hands the proceeds of such sales, and fully settle with the Auditor of State, as often as once in three months, and at such time oftener than three months as the Auditor of State may direct; and the said Commissioner shall be governed by the instructions of the Auditor of State, in relation to the time and manner of paying over such moneys, making returns, and settling with said Auditor, and keeping the books of his office.

Acts repealed.

SEC. 12. That the act passed February 8th, 1847, entitled "An act to establish the price of the Miami, Wabash and Erie, and Ohio canal lands, and to secure their sale to actual settlers," and the act amendatory thereto, passed March 23d, A. D. 1850, be, and the same are hereby repealed.

Price of appraised lands reduced.

SEC. 13. That the apraisement of all lands now subject to entry or sale at said State Land Office at Defiance, which have been heretofore appraised in pursuance of law, at more than two dollars per acre, is hereby reduced to the sum of two dollars per acre; and such lands shall be sold under the provisions of this act, in the same manner as such lands would be, if originally appraised at two dollars per acre; Provided, that the provisions of this section shall extend only to purchasers intending to become actual settlers on the land purchased.

Same subject.

SEC. 14. That from and after the first day of January, A. D. 1853, the reduction in price of lands to actual settlers, provided in section seven of this act, shall be seventy-five per cent. in the stead of fifty per cent. specified in said section.

SEC. 15. This act shall take effect on the first day of June, A. D. 1852.

JAMES C. JOHNSON,
Speaker of the House of Representatives.

WILLIAM MEDILL,
President of the Senate.

April 16, 1852.

AN ACT

To authorize the Courts of Common Pleas, and the Judges thereof, in vacation, to arrange the business upon the dockets of said Courts.

When judges may order chancery cases to be first disposed of, &c.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the Court of Common Pleas, in the several counties of this State, and the Judges thereof, in vacation, may, whenever the state of the chancery docket in such court requires it, order that at such subsequent terms of the court as they may deem expedient, the chancery causes shall be first heard, and that all writs of venire facias for petit juries, and subpœna, returnable to such term, shall be issued, returnable to the second or any subsequent day of the term, as the judges of said courts may by such order direct; and at such terms, the court shall first hear the causes on the chancery docket, and shall not proceed to hear the issues on the law docket, except by consent, until the day to which the writs of venire aforesaid, and subpœna, were made returnable; and the clerk of the court, after the entry of such order, shall arrange the trial docket so as to conform to such order, as to the days of trial.

When order to be recorded.

SEC. 2. That if the order provided for by the first section of this act be made by a judge of the court of Common Pleas, in vacation, it shall be entered of record by the clerk of said court; but such order shall not be made later than four weeks prior to the next succeeding term of said court.

Acts repealed.

SEC. 3. That the act entitled "An act to amend the act entitled an act to amend the act directing the mode of proceeding in chancery, and the amendatory acts thereto," passed January 24th, 1846, be and the same is hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.

WILLIAM MEDILL,
President of the Senate.

April 16, 1852.

AN ACT

To define the duties of the Commissioners of the Sinking Fund.

Acting Commissioner of Sinking Fund.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the Auditor of State, Secretary of State, and Attorney General, created by article eighth, section eighth, of the Constitution, a Board of Commissioners, to be styled the Commissioners of the Sinking Fund, shall appoint one of their number Acting Commissioner of the Sinking Fund, who shall hold said appointment during his term of office as a member of said Board; and it shall be the duty of said Acting Commissioner, with the advice and concurrence of the other members of the Board, to perform all and singular the duties enjoined on said Board.

His duties.

SEC. 2. The Acting Commissioner shall keep a complete and full journal of all the proceedings and orders of the Board of Commissioners of the Sinking Fund, together with a record of all certificates of the Public Debt, and transfer of the same, and all other papers issued or made by order of said Board; and said Commissioners may appoint a Secretary or Clerk, to assist the Acting Commissioner, with a salary not to exceed dollars, to be paid as other officers of the State are paid.

Board may appoint a Clerk.

Books, records, &c., where kept

SEC. 3. All the books, records and papers of the office of the Commissioners of the Sinking Fund, (except the books in New York for transfer of stocks and payment of interest,) shall be kept in the office of the Acting Commissioner, at the seat of Government of the State.

Books, &c., subject to examination, by whom.

SEC. 4. All the books, records, journals, documents and papers kept by the Acting Commissioner, shall at all times be subject to the examination of the Governor, Treasurer, Members of the Board of Public Works, and any Member of the General Assembly; and the Commissioners of the Sinking Fund, shall semi-annually report, as is required by the Constitution of the Executive officers, to the Governor, the condition of the public debt and of the Sinking Fund, and their proceedings in relation to the same; and also such other or additional reports as may, at any time, be required by either branch of the General Assembly.

Commissioners shall report annually, &c.

Money to be paid into the Treasury.

SEC. 5. The Commissioners of the Canal Fund, shall, immediately after the passage of this act, pay over to the Treasurer of State, all moneys in their hands belonging to the State, who shall give duplicate receipts therefor; one of which receipts, with all books, records, papers and furniture of every

description, in their possession or custody, belonging to the state, shall, at the same time, be delivered to the Acting Commissioner of the Sinking Fund.

Acting Commissioner to pay the interest on public debt, &c.

SEC. 6. The Acting Commissioner of the Sinking Fund is hereby especially required, authorized, and fully empowered, under the advice and with the concurrence of the other members of the Board, to cause to be paid the interest on the funded debts of the State, and redeem, according to law, all the valid certificates of the Public debt, which have been assigned or created on the part of the State; and to preserve, to the extent of his power, the faith and credit of the State; for which purpose he may, with the concurrence of said Board, execute and deliver in behalf of this State, all necessary certificates of the public debt, and other instruments of writing relating thereto, which by law may be required to be issued.

Successors to Fund Commissioners.

SEC. 7. The Commissioners of the Sinking Fund shall be successors to the Commissioners of the Canal Fund.

Office and agency to be established in New York.

SEC. 8. It shall be the duty of the Commissioners of the Sinking Fund to select some suitable office or place, in the city of New York, and to appoint an Agent, by whom, and at which place, transfers of the Stock of the State may be made, and principal and interest of the foreign public debt be paid, under such rules and regulations as they may adopt, in conformity with the existing laws of the State.

Disbursement of moneys belonging to Sinking Fund.

SEC. 9. All money paid into the State Treasury, belonging to the Sinking Fund, shall be disbursed by the Treasurer of State, to the Agent for the payment of the principal and interest of the public debt, in the investment of the Sinking Fund, or for other purposes, as other moneys are disbursed upon the draft of the Auditor of State, to be drawn upon the requisition of the Commissioners of the Sinking Fund, which requisition shall be recorded upon the journal of said Commissioners, and signed by the Acting Commissioner, and at least one other member of the Board.

Reports to be made to Commissioners of Sinking Fund.

SEC. 10. All reports now required by law to be made to the Canal Fund Commissioners, shall hereafter be made to the Commissioners of the Sinking Fund, except as may by law be otherwise provided for.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 19, 1852.

AN ACT

Regulating the Hours of Manual Labor.

Women and children shall labor not exceeding ten hours per day.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That in all manufactories, workshops and other places used for mechanical or manufacturing purposes, in the state of Ohio, where children under the age of eighteen years, and women, are employed, the time of labor of the persons aforesaid, shall not exceed ten hours for each day; and any owner, stockholder, overseer, employer, clerk or foreman, who shall compel any woman or any child under eighteen years of age, to labor in any day exceeding ten hours, or shall permit any child under the age of fourteen, to labor in any factory, workshop, or other place used for mechanical or manufacturing purposes, for more than ten hours in any one day, where such owner, stockholder, overseer, employer, clerk or foreman has control, such person so offending shall be liable to a prosecution, in the name of the state of Ohio, before any Justice of the Peace or Court of competent jurisdistion of the county, wherein the same shall occur, and upon conviction thereof, be fined in any sum not less than five, or more than fifty dollars.

Penalty for demanding or permitting excess of labor.

In case of no express contract as to hours

SEC. 2. That in all engagements to labor in any mechanical or manufacturing business, a day's work, when the contract of labor is silent upon the subject, or where there is no express contract, shall consist of ten hours; and all agreements, contracts, or engagements in reference to such labor, shall be so construed.

Fines to be applied to support of schools.

SEC. 3. That whenever a fine shall be collected, in accordance with the first section of this act, the same shall be paid over to the trustees of the township wherein the trial may be had, and the same shall be by them disbursed for the benefit of common schools.

JAMES C. JOHNSON,
Speaker of the House of Representatives.

WILLIAM MEDILL,
President of the Senate.

March 19, 1852.

AN ACT

To provide for furnishing new Seals and Seal Presses for Courts.

When seals are lost or worn out, new ones to be provided.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever any seal, provided, or that may hereafter be provided by the Secretary of State, pursuant to law, shall be lost, worn out, or defaced, it shall be the duty of said Secretary, upon being satisfied of the fact, to provide a new seal in lieu thereof.

When presses shall be furnished.

SEC. 2. That when any seals have already been provided for the District Courts, or whenever it shall be necessary to furnish a press for any of the seals aforesaid, it shall be the duty of the Secretary of State to procure the same, on the application of the person holding the office for which said seal or press is to be provided.

JAMES C. JOHNSON,
Speaker of the House of Representatives.

WILLIAM MEDILL,
President of the Senate.

March 19, 1852.

AN ACT

For the protection of Sheep.

Owner of dogs liable for damages.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That if any dog or dogs, shall kill or injure any sheep, the owner or harborer of such dog or dogs, or any of them, shall be liable for all damages that may be sustained thereby, to be recovered by the party injured, before any court having competent jurisdiction.

Vicious dogs may be killed.

SEC. 2. It shall be lawful for any person, at any time, to kill any dog which may be found running, worrying, or injuring sheep.

Stray dogs may be killed.

SEC. 3. That if the owner of any dog which is in the habit of running from home and wandering about without the presence of its owner, who shall neglect or refuse to confine such dog, after due notice given of its wandering habits, it shall be lawful for any person to kill such dog whenever it may be found roaming about off the premises, and away from the presence of such owner.

Acts repealed.

SEC. 4. That the act entitled "An act to prevent injury by dogs," passed December 24th, 1814, and an act entitled "An act for the protection of sheep," passed March 15th, 1850, be, and the same are hereby repealed; Provided, that nothing herein contained shall be so construed as to interfere with any rights, liabilities or claims, that may have accrued under the said repealed acts.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 22, 1852.

AN ACT

Providing for the appointment of Officers of the Ohio Penitentiary.

Governor to appoint Directors of Penitentiary.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the Governor of the State, by and with the advice and consent of the Senate, is hereby authorized and directed to appoint three directors of the Ohio Penitentiary, one of whom shall be a resident of the county of Franklin, and no two shall be residents of the same county, who shall hold their offices for the term of two years, and until their successors are appointed and qualified; said Directors shall severally take and subscribe an oath or affirmation, to support the constitution of the United States and of the State of Ohio, and faithfully to discharge all the duties which may be required of them by law; and in case any vacancy by death, resignation, or otherwise, shall occur in the office of Directors, during the recess of the General Assembly, the governor shall fill such vacancy by appointment, subject to the consent of the Senate, when again convened.

Oath of Directors.

Vacancies.

Compensation.

SEC. 2. The Directors shall receive annually the sum of one hundred dollars, as a compensation for the services required

of them by law, to be paid out of the state treasury, upon the order of the auditor of State.

Directors to appoint Warden.

SEC. 3. It shall be the duty of the Directors to appoint a Warden of the Penitentiary, who shall hold his office for the term of two years, unless sooner removed by the directors on good cause shown; but in case of removal, the reasons therefor shall be entered upon the books of the institution. The

Oath of Warden

Warden shall take and subscribe an oath or affirmation, to support the constitution of the United States and of the state of Ohio, and faithfully to discharge all the duties which may be

Bond of Warden.

required of him by law; he shall give bond to the State of Ohio, in the sum of ten thousand dollars, with at least two good and sufficient sureties, who shall be freeholders of this state, conditioned for the faithful performance of the several duties which may, from time to time, be imposed upon him by the laws of this State, which bond shall be approved by the Directors, and deposited in the office of the treasurer of State.

Warden to appoint assistants, &c.

The Warden shall appoint such number of Assistants as to the directors may appear necessary, and the assistants so appointed shall severally take an oath or affirmation to discharge with fidelity their duties as such, and shall enter into bonds to the state of Ohio, with one or more sufficient sureties, to be approved of by the Directors, in any sum not exceeding five hundred dollars each, conditioned for the faithful discharge of their duties, which bond shall be deposited in the office of treasurer of State.

Compensation of Warden and assistants.

SEC. 4. The Warden shall receive an annual compensation for his services, to be fixed by the Directors, not exceeding twelve hundred dollars per annum; each Assistant shall receive not exceeding thirty-five dollars per month, except night guards, who may receive not exceeding forty dollars per month, to be fixed by the Directors, which compensation shall be paid quarter yearly out of the treasury of the State, upon the order of the Directors. That no person so employed shall be entitled to perquisites, in the shape of board, provisions, carriages or horses, for themselves or families.

Duties of Warden.

SEC. 5. The Warden shall attend to the purchasing of the raw materials to be manufactured in the Penitentiary, and shall also attend to the sale of all articles manufactured therein; he shall also provide food and clothing for the convicts, and shall have in charge the whole operations of the establishment. All moneys drawn from the treasury for the use of the prison, shall be drawn on the order of the Warden, countersigned by at least one of the directors, and under such rules and regulations as shall from time to time be prescribed by law, or the rules established by the Directors.

Duties of Directors.

SEC. 6. The Directors shall, in turn every two weeks, and in company every three months, inspect the Warden's accounts, the different apartments of the prison, and the condi-

tion of the prisoners, and shall have power to regulate and fix the appointment, duties and salary of all officers or agents of the Penitentiary not otherwise provided for by law; and, annually, in the month of December, submit to the Governor of the state, a report of the condition of the prison, together with suggestions as to the improvement that may to them appear necessary.

By-laws, rules, &c.

SEC. 7. The Directors and Warden of the Penitentiary, shall, from time to time, establish by-laws, rules and regulations, for the discipline and government thereof; and the Warden, for himself and his assistants, shall be held responsible for the observance and enforcement of such by-laws, rules and regulations; Provided, always, that such by-laws, rules and regulations, shall not be contrary to law; and the directors shall submit such by-laws, rules and regulations, to the legislature, at each regular session thereof.

Clerk—his appointment and duties.

SEC. 8. The Warden, by and with the advice and consent of the Directors, shall have power to employ a Clerk, whose duty it shall be to keep a fair, plain and regular account, in double entry, with the state, crediting the same with all money drawn out of the treasury for the use of the Penitentiary, and with all moneys received for the sale of manufactured articles, and charging the same with all moneys paid out on account of the institution. He shall also keep a regular account of all purchases made by the Warden, for the use of the institution, and of the amount of the sales of manufactured, and all other articles; and also of the name, age and general description of each prisoner, and the crime for which he or she has been convicted, together with any confession he or she may make, as well as every circumstance connected with his or her case, as may be deemed of importance; and shall receive a salary not exceeding nine hundred dollars per annum. The Directors and Warden shall hold their respective offices until their successors are appointed and qualified.

JAMES C. JOHNSON,

Speaker of the House of Representatives.

WILLIAM MEDILL,

President of the Senate.

April 26, 1852.

AN ACT

To authorize the execution of deeds for lands purchased of the State of Ohio in cases where the original conveyance has been lost or destroyed.

WHEREAS, it is represented to this General Assembly, that many deeds of conveyance for lands purchased of the state, were destroyed by fire at the time the land office at Defiance was burned, in consequence of which, such purchasers have no legal evidence of title to their lands: Therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the proper officers are hereby authorized and required to execute and deliver to such purchasers, their heirs or assigns, deeds of conveyance for lands so sold, the deeds for which have been lost or destroyed, before coming into the possession of such purchasers, on the production to such officers of the certificate of purchase; and if, in any case, such certificate of purchase should also have been lost or destroyed, and such loss or destruction can be shown to the satisfaction of such officers, by affidavits, properly authenticated, and it appearing from the records that a certificate corresponding with that alleged to have been lost, was issued, such officers shall place on file the testimony so produced, and shall issue deeds for such land to the purchaser, the same as if the original certificate had been produced.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLAM MEDILL,
President of the Senate.

April 26, 1852.

AN ACT

To encourage the killing of Wolves.

Bounty for killing.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That any person who shall kill any wolf or wolves within this state, shall be entitled to receive a compensation

or reward, for each wolf above the age of six months, of four dollars and twenty-five cents; and for each wolf under the age of six months, the sum of two dollars and fifty cents.

Scalp must be produced.

SEC. 2. That any person claiming such reward, shall produce the scalp or scalps of the wolf or wolves, so killed, with the ears entire, within twenty days after such wolf or wolves have been killed, to the clerk of the court of common pleas of the county within which such wolf or wolves were killed, or of the county to which such county may be attached for judicial purposes; and said clerk shall administer to the person producing such scalp or scalps, as aforesaid, the following oath or affirmation: "You do solemnly swear, or affirm, (as the case may be,) that the scalp (or scalps) now produced by you, is the scalp (or scalps) of a wolf or wolves (as the case may be.) taken in the county of (naming the county,) by you, within twenty days last past, and you verily believe the same to have been over or under the age of six months, (as the case may be;) and that you have not spared the life of any she wolf within your power to kill, with a design to increase the the breed;" which oath or affirmation shall be, by the clerk, taken in writing, and subscribed by the person presenting the scalp or scalps.

Oath required.

Clerk shall destroy scalp, grant order on treasurer, &c.

SEC. 3. That the clerk before whom such oath or affirmation is made, after causing the scalp or scalps to be destroyed in his presence, shall file the deposition so taken, in his office, and under the seal thereof, grant to such person an order on the treasurer of state for the amount of moneys which may be due such person by the provisions of the first section of this act, which shall be payable to him and to his order, and shall be received in payment of taxes for State purposes; and each and every order drawn as aforesaid, shall be numbered by the clerk, and placed on file in his office, with the deposition of such person, which deposition shall, on the back of the same, contain the receipt of such person, for such order drawn as aforesaid.

Further duties of clerk.

SEC. 4. That said clerk shall enter in a book, to be kept by him for that purpose, the date, number and amount of all orders drawn by him in conformity with the provisions of the preceding section of this act; also, the name of the person to whom granted; and he shall, annually, on or before the fifteenth day of April, make out and transmit to the auditor of state, an exhibit of all orders by him drawn as aforesaid.

Duty of Treasurer and Auditor of State.

SEC. 5. That it shall be the duty of the State Treasurer, immediately on receiving in payment of taxes, or otherwise, any wolf scalp order, to enter on the face of the same, the day and date, and the word "redeemed;" and it shall be the duty of the auditor of state, on receiving any such redeemed order from the treasurer, to file and preserve the same, and

once a year to compare them with the exhibit of the clerk of the proper county, hereinbefore required to be made to said auditor.

Bounty may be increased by county commissioners.

SEC. 6. That the county commissioners of any county, may increase the bounty for killing wolves over six months old, to eight dollars per scalp; Provided, such increase shall be paid out of the treasury of the proper county.

JAMES C. JOHNSON,
Speaker of the House of Representatives.

WILLIAM MEDILL,
President of the Senate.

April 26, 1852.

AN ACT

To reorganize the Benevolent Institutions of the State of Ohio.

Benevolent Institutions to be placed under control of a Board of Trustees, &c.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the Asylum for the Insane, the Institutions for the education of the Deaf and Dumb, and for the education of the Blind, be placed under the control of a Board of Trustees, consisting of nine members; three of which board shall be selected from the city of Columbus, or its vicinity, and the remaining six to be selected from the different portions of the State, no two of whom shall be residents of the same county, which shall be denominated the Board of Trustees for the Benevolent Institutions; who shall each take an oath faithfully to discharge the duties required of them by law; and the said board shall be appointed immediately after the passage of this act, as provided for in the constitution; the three first named, shall be appointed for two years; the three second named, for four years; and three last named, for six years; and after their terms of service shall successively expire, three others shall be appointed in like manner, for the term of six years.

Their powers.

SEC. 2. That to the Board of Trustees shall be committed all the powers for the government and regulation of the institutions above named, now held by the several boards of

trustees of these institutions, which boards of trustees it shall supersede, from and after the time specified in this act.

Trustees to appoint a President, &c.

SEC. 3. That the board of Trustees shall appoint from their own number, a President, to preside at its meetings, and a Secretary, to record, attest and preserve its proceedings.

Committee ad interim.

SEC. 4. That the Board shall appoint from its own number, a committee of three for the institutions aforesaid, which committee shall have control of the respective institutions during the interim of the stated meetings of the Board; all their acts, however, shall be subject to the decision of the whole Board, at its stated meetings.

Board to meet annually, and report.

SEC. 5. That the Board shall meet annually, on the first Monday in December, at which time the committee above named, and also the Superintendents of the several institutions, shall present their written reports, which reports shall contain the names of each and every person employed about the several institutions, and also the amount paid to each person, which reports shall be approved by the Board, and presented to the Governor, as provided for in the constitution.

Visitations, and report thereof.

SEC. 6. That there shall be visitations and thorough examinations of the several institutions, monthly by one, and semi-annually by a majority of the trustees, and annually, by the whole Board of trustees, which board shall draw up and preserve, a detailed report or record of the proceedings of the several institutions under their charge, which record shall be subject to the command of the General Assembly, and open at all times to the committees on Benevolent Institutions.

Treasurer of state to be treasurer of institutions.

SEC. 7. That the Treasurer of State shall be, and he is hereby appointed the treasurer of these several institutions, and all the expenses of the several institutions shall be paid out of the funds appropriated for the use of such institutions, on orders signed by the Superintendent and two of the committee.

Services to be gratuitous — but expenses paid.

SEC. 8. The Trustees provided for in this act, shall perform all the duties required of them gratuitously; Provided, however, that they shall be entitled to have their necessary expenses paid, during the time they may be actually engaged in the discharge of their official duties.

When act to take effect.

SEC. 9. That this act shall take effect from and after the first Monday in June next; and the Board of Trustees appointed under the provisions of this act, shall meet at the city of Columbus on said day, and organize.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 28, 1852.

AN ACT

To provide for the erection of two additional Lunatic Asylums.

Governor to appoint six trustees to locate two new Asylums.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the Governor, by and with the advice and consent of the Senate, is hereby authorized and required to appoint six Trustees, no two of whom shall be residents of the same county, or adjoining counties, whose duty it shall be to select and purchase, or receive by gift or donation, two lots of land, at such points as in their opinion will best subserve the public interest, suitable for the erection thereon, of two Asylums for the Insane; the unincumbered title to said lots to be secured to the State of Ohio; Provided, neither of said Asylums shall be located within five miles of any city containing fifty thousand inhabitants, nor within one mile of any other incorporated city, town or village.

Duties of trustees as to donations, location, &c.

SEC. 2. That in making such selections, the Trustees shall take into consideration any donation that may be proposed towards the establishment and erection of said institutions. Each one of said lots of land so selected, shall contain not less than fifty nor more than one hundred acres. Said Trustees, after securing the land, shall forthwith proceed to make arrangements for building, on each lot, suitable buildings for the cure and treatment of at least one hundred patients, and to enable them to proceed without difficulty or embarrassment, they are hereby authorized to contract (according to the provisions of the following section of this act) for the necessary materials, appoint suitable persons to attend the erection of the same, and to perform such other duties as may be necessary to carry out the objects herein contemplated.

Plan to be submitted to architect, &c.

SEC. 3. That said Trustees of said Asylum shall submit to some competent architect, a statement of the dimensions, arrangement and plan of each of said Asylums, and of all buildings and other improvements necessary to the perfect utility of said Asylums, and also a statement of the several kinds and descriptions of materials which shall be used in the several parts of said improvements, as the said improvements shall have been agreed upon by said Trustees; and shall procure to be executed by said architect, such drafts, descriptions, plans, estimates and profiles, of all such proposed buildings and improvements of grounds, as will enable estimates to be made therefrom, of the cost of all parts of said work and materials; and said Trustees shall, at least four weeks before the time for receiving bids as herein provided for, place copies of such drafts, descriptions, plans, esti-

mates and profiles, in the office of the Secretary of State, and also publish said descriptions in four newspapers of general circulation throughout the state, stating therein the parts in which the said work and materials will be let, and the terms. And said trustees, after said notice, shall let the said work and materials to the lowest bidder, who shall execute a bond, with two sufficient securities, conditioned for the faithful performance of his contract; but the entire cost to the state of each of said Asylums, including all necessary buildings, grounds and improvements, shall not exceed in the aggregate, when perfectly completed, seventy thousand dollars; and no contract shall be made for beginning any part of said work, nor shall any work be begun, until arrangements shall be made insuring their completion, at an aggregate not exceeding the sum aforesaid.

Work to be let to lowest bidder.

Sec. 4. Said Trustees, before entering upon the duties of their office, shall take and subscribe an oath or affirmation, before some competent authority, faithfully to discharge all the duties required of them by this act; they shall each be entitled to receive three dollars for each day necessarily employed by them in selecting sites, contracting for the erection of buildings, and providing temporary arrangements for the accommodation of patients, as provided for in section six of this act, and the expenses necessarily incurred in the discharge of the duties assigned them, to be paid out of any moneys in the State Treasury not otherwise appropriated; their accounts to be audited and allowed by the Auditor of State.

Oath, and compensation.

Sec. 5. Said Trustees shall be required to make a fair and full report of all their proceedings, (including the plans of the buildings adopted by them,) to the present General Assembly, if in session; and if not, then to the next General Assembly.

Trustees to report.

Sec. 6. That said Trustees may, if in their opinion the suffering condition of the insane require it, cause temporary arrangements to be made for their accommodation and treatment, until the permanent buildings provided for in this act shall be completed; the same, as well as the institution herein contemplated, to be under the control of said Trustees, and subject to the rules and regulations provided for in the several acts for the government of the Ohio Lunatic Asylum, and the care of idiots and insane.

Trustees may make temporary arrangements for insane.

Sec. 7. That at the meeting of the next General Assembly, the Governor shall nominate, and by and with the advice and consent of the Senate, appoint six persons as successors to the Trustees herein named, who shall manage and direct the concerns of the Asylums, in manner as provided for in the several acts for the "government of the Ohio Lunatic Asylum, and the care of idiots and insane;" and of those first appoint-

Successors to trustees, to be appointed at next meeting of the legislature.

ed under this section, two shall serve for one year, two for two years, and two for three years.

Term of office—vacancies.

SEC. 8. Said Trustees, to be appointed as provided for in the first section of this act, shall hold their office for the term of two years, or until their successors are appointed; and in case a vacancy shall occur by death, resignation, or otherwise, the Governor shall fill such vacancy by appointment, until the next General Assembly, or until his successor shall be appointed, as herein provided for.

Trustees may take grants of land, &c.

SEC. 9. That said Trustees, and their successors in office, shall have power to take and hold in trust for the use and benefit of said Asylums, any grant or devise of land, and any donation or bequest of money, or other personal property, to be applied to the maintenance and support of insane persons, in, or to the general use of the Asylums.

Money appropriated.

SEC. 10. That the sum of one hundred and forty thousand dollars, is hereby appropriated for the purchase of the aforementioned lots of land, and the erection of the buildings thereon, as contemplated by this act, fifty thousand dollars to be paid in the year 1852, and the remaining ninety thousand as the work progresses, after the year 1852, out of any moneys in the State Treasury not otherwise appropriated, to be drawn on the order of a majority of the board of Trustees; Provided, that no moneys shall be drawn from the treasury, faster than the progress of the work may require.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 30, 1852.

AN ACT

To regulate elections for Senators and Representatives in New Counties, erected since March 10th, 1851, and that may hereafter be created.

How new counties shall be represented.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That new counties, created since the 10th day of March, one thousand eight hundred and fifty-one, and all new counties that may hereafter be created, shall be represented

in the Senate and House of Representatives of the State, during the decennial period in which such new county is or shall be created, in the same manner as if the law creating any such new county had not been passed.

Duties of judges of elections.

SEC. 2. The judges of all state and county elections in all such new counties, shall be governed in all their duties by the general laws governing elections, so far as the same are consistent herewith.

As to poll books &c

SEC. 3. The judges of elections in the several townships or election districts, composed in whole of territory that originally belonged to any one of the counties out of which such new county is created, shall cause to be kept two separate poll books for Senator and Representative, in the same manner that the general poll book is required by law to be kept; one of which shall be deposited with the township or district clerk, as the case may be, in each township or election district, for the use of such persons as may choose to inspect the same; and the other shall be certified, sealed up, and directed, in the same manner as required by law, for the return of the general poll book, and conveyed within three days next after the election, by one of the judges thereof, to the clerk of the court of common pleas of the county to which the territory before, and at the time of the creation of such new county, belonged.

Same subject.

SEC. 4. The judges of elections of such townships or election districts as are composed of territory that originally belonged to two or more of the counties out of which such new county is created, shall cause to be kept two separate poll books for Senator and Representative, for each portion of territory that originally belonged to different counties, in the same manner that the general poll book is required by law to be kept, one of each of which shall be deposited with the clerk of such township or election district, and the other of each shall be certified, sealed up and directed, in the same manner as required by law for the return of the general poll book, and conveyed within three days next after the election, by one or more of the judges thereof, to the clerk of the court of common pleas of that county to which the territory before, and at the time of the creation of such new county, belonged.

Vote, challenge and oath of electors.

SEC. 5. It shall be lawful for the electors residing in any such township or election district, as is mentioned in the fourth section of this act, to vote for Senator and Representative, at the usual place of holding elections in such township or election district; and it shall be the duty of the judges of elections of any such township or election district, in said fourth section mentioned, before they receive a ballot for Senator and Representative, to put the necessary question to the elector proposing to vote, so as to fix his residence; and in case the elector is challenged for non-residence in any

particular portion of the township or election district, then it shall be the duty of said judges to swear or affirm the elector, to the facts, in the same manner as for any cause of challenge.

Additional clerks—their fees.

SEC. 6. For the purpose of carrying out the provisions of this act, the said judges shall take to their assistance any necessary number of additional clerks, who shall be paid the same fees, and qualified in the same manner as in other cases.

Returns—how made, counted and certified.

SEC. 7. The several clerks of the court of common pleas referred to in this act, shall receive the returns of the elections for Senator and Representative, and be governed in all things thereby in the same manner as if the law creating such new county had not been passed; and in making out the returns of such election, shall receive and count the said votes so returned, as aforesaid, and certify accordingly, and be in all respects governed by the general laws in regard thereto, so far as the same may be consistent herewith, and as if said votes were polled in their respective counties; and the said clerks of court shall give a certificate to the returning officer for his fees, the same as for like services, to the Auditor of their respective counties; and the said Auditor shall audit the same, and issue an order on the Treasurer of the county therefor.

Fees, how audited and paid

Vote on separate ballot.

SEC. 8. All votes for Senators and Representatives in any such new county, shall be on a separate ballot.

Penalty for delinquency of duty.

SEC. 9. That if any officer charged with any duties under this act, shall neglect or refuse to perform the same, such officer, upon conviction thereof, before any court of competent jurisdiction, shall be fined in any sum not exceeding one hundred and fifty dollars, at the discretion of the court.

How fines recovered.

SEC. 10. That all fines imposed by this act, shall be recovered, with costs of suit, in an action of debt, or by indictment for the use of the county.

JAMES C. JOHNSON,
Speaker of the House of Representatives.

WILLIAM MEDILL,
President of the Senate.

April 30, 1852.

AN ACT

To provide for compensation to owners of private property appropriated to the use of Corporations.

Private property, appropriated to use of corporations.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That all appropriations of private property to the use of any and every corporation now existing, or that may hereafter be created in this state, which may be authorized by law to make such appropriation, for the right of way, or for any other purpose which may be within the scope of the legal authority of such corporation, shall be made and conducted in accordance with the provisions of this act.

Statement to be filed with probate judge.

SEC. 2. Whenever any such corporation shall wish to make any such appropriation, and shall be unable to agree with the owner or owners of the property sought to be appropriated, or with his, her, or their authorized agent or attorney, upon the compensation to be paid therefor, it shall be the duty of such corporation, by its proper officer, agent or attorney, to make out a statement, which shall contain a specific description of each parcel of property and rights sought to be appropriated, within the county where such application shall be made, and which such corporation, at the time of filing such statement, seeks to appropriate, of the work, if any, intended to be constructed thereupon, the name or names of the owners of each parcel, if known, or if not, a statement of that fact, and such statement shall be forthwith filed with the probate judge of the proper county.

Duties of probate judge, clerk, sheriff, &c., in the premises.

SEC. 3. That it shall be the duty of the probate judge, on receiving such notice, to immediately notify the clerk of the court of common pleas, and sheriff of the county, of the filing of such statement; and the said clerk and sheriff, shall, within one day after receiving such notice, proceed to select from the names returned to serve as jurors, a jury of twelve men, in the same manner that jurors are selected for the trial of any cause in the court of common pleas, for the purpose of estimating and valuing the amount of compensation each owner or owners shall receive, or be entitled to, by reason of such appropriation; and the said clerk shall immediately return the names of the jurors so drawn, to the probate judge, who shall thereupon issue his venire facias to the sheriff or other proper officer of the county, to summon such jurors, so drawn as aforesaid, to attend on some day specified, at the office of said judge, not exceeding five days from the issuing of said venire,

then and there to be empanneled and sworn to render a just verdict, in the manner hereinafter described; and shall, at the time of issuing such venire, issue a notice to the several owners of property so sought to be appropriated, of the time when said jury will meet at the office of said judge, for the purposes aforesaid; which notice such sheriff or other officer shall serve upon the party therein named, at the time of serving such venire.

Duty of sheriff in summoning juries.

SEC. 4. It shall be the duty of the sheriff, or other proper officer, receiving such venire facias, to summon the persons therein named, in the same manner that jurors are summoned to attend the court of common pleas; and if, by reason of non-attendance, challenge for cause, or for any other reason, such jury shall not be full, the sheriff shall fill the same with talesmen, as in like cases in the court of common pleas; but no challenge except for cause, shall be allowed to either party.

Oath of jurors.

SEC. 5. When the panel is so filled, it shall be the duty of the probate judge to administer the following oath to the jury so empanneled, to wit: You and each of you do solemnly swear, (or affirm,) that you will justly and impartially assess, according to your best judgment, the damages, in money, which (here name the owner or owners,) will (each) sustain by reason of the appropriation of such property to the use of (here repeat the name of the corporation,) in the proceedings now pending; and you do further swear, (or affirm,) that you will truly, faithfully and impartially, estimate and assess the amount of such compensation, irrespective of any benefit to him from any improvement proposed by said corporation; this you swear, as you shall answer to God, (or affirm,) under the pains and penalties of perjury; and the said probate judge, before administering such oath or affirmation, shall personally enquire of each juror whether he is interested in such corporation, either as owner, stockholder, agent or attorney, or in any other manner; and if any juror shall answer such question in the affirmative, such juror shall be excused from serving, and the panel shall be filled with talesmen, by the sheriff, as in other cases.

Jurors personally interested, to be excused.

Writ to sheriff and subsequent procedure.

SEC. 6. It shall be lawful for the said probate judge, upon motion of either party, to issue the following writ to the sheriff, or other proper officer, to wit: To the sheriff of ——— county: You are hereby commanded to conduct the twelve jurors named in the panel to this writ annexed, to view the property or premises sought to be appropriated by (here state the name of the corporation,) and owned by (here state the name of the owner or owners,) on ——— the —— day of ———, then and there to view the premises or property aforesaid, in the presence of A. B. on the part of the corporation aforesaid, and C. D. on the part of the owner, (or owners,) ap-

pointed by this court; and you shall make return of the manner you have executed this writ, to this court, on the ——— day of ———, A. D. ——, and have you then there this writ. The aforesaid, shall be signed by the probate judge, and certified under his seal of office, and he shall also deliver to the sheriff a copy of the statement, containing a separate description of each parcel of property and rights sought to be appropriated within the county; and he shall have the power to appoint the two persons therein named; and the sheriff, or other proper officer, who is to execute said writ, shall, by a special return upon the same, certify under his hand, that the view has been made, according to the command thereof. The expenses of taking said view shall be taxed in the bill of costs, and no evidence shall be given on either side at the taking thereof; Provided, that witnesses may be examined before said jury, after their return to the court aforesaid, and the trial in each case shall be conducted thereafter in said probate court, in the same manner that the trial of civil cases is conducted in the court of common pleas of the county in which said proceeding is had; Provided, that if more than three witnesses are examined by either party on the same point, in the same case, the said probate judge shall have power to tax the fees and costs of such witnesses to the party calling the same.

Unknown or non-resident owners, to be notified by advertisement.

SEC. 7. If the owner or owners, or his, her or their guardian, as the case may be, are unknown, or do not reside within the county where such property may be situated, such corporation, by its proper officer, authorized agent or attorney, shall make affidavit to that fact, and shall, nevertheless, file such statement as is required by the second section of this act, in the probate court, and shall also publish in some newspaper of general circulation in such county, for the term of four weeks, an advertisement containing a description of the property sought to be appropriated; and a notice that they have made application according to law, for such appropriation, specifying the day, which shall be within ten days from the expiration of said term of four weeks, in which a jury will be selected to assess the compensation to be paid therefor; and upon such day a jury be impanneled and sworn by the probate judge, and the proceedings shall thereafter be conducted in accordance with the foregoing provisions of this act.

Fees of jurors, sheriffs, witnesses and judge.

SEC. 8. The jurors summoned and serving in accordance with the provisions of this act, shall each receive one dollar per day for their services, and five cents per mile for every mile of the distance they may be compelled to travel in the discharge of their duties; the sheriff shall be entitled to such fees as he may be allowed by law for similar services in other cases, but he shall not be allowed anything in the way of poundage; the witnesses shall be allowed the same fees to which they would be entitled for attendance on the court of

common pleas; the probate judge shall be allowed to enter a charge of three dollars in the cost bill for his services, and no more; and the whole costs so taxed shall be paid by the corporation seeking to make such appropriation; Provided, that such corporation, by its proper officer, agent or attorney, may, at the time of filing the statement aforesaid, with the probate judge, deposit with said officer such an amount in money as they may deem a just and equitable compensation for the property and rights sought to be appropriated, and if the final verdict of the jury shall not exceed the amount so deposited, the whole costs of the proceedings shall be equally divided between the corporation and the owner of such property, in case of his refusal to accept the same.

Exceptions and appeal.

SEC. 9. All the proceedings hereinbefore provided for in the probate court, shall be open to exceptions, in the same manner that exceptions are or may be taken in civil suits in the court of common pleas; and either party may take the same up to the court of common pleas of the proper county, on a writ of certiorari, which shall be issued of course by the clerk thereof, upon the filing of a precipe, in which case such exceptions, signed and sealed by the probate judge, shall be taken and considered as a part of the record of such proceedings; Provided, that such writ of certiorari shall be issued within fifteen days from the rendition of the judgment in the probate court; Provided, that such corporation shall have the right, on the finding of the jury in the probate court, to pay into court the amount of compensation so found, and proceed to enter upon and appropriate such property, notwithstanding the cause may be removed to the court of common pleas.

Rule as to costs, and reversal of judgment, &c.

SEC. 10. If the court of common pleas, upon the hearing of the cause, shall affirm the judgment of the probate court, all the costs in said court of common pleas, shall be paid by the party at whose instance the writ of certiorari shall have been issued; and if they shall reverse such judgment, they shall retain such cause for trial, and final judgment in said court of common pleas, as in other cases, which trial shall be had at the term of the reversal of such original judgment, unless, for good cause shown, by either party, the court shall grant a continuance of such cause; and on the trial of such cause in the court of common pleas, the same oath or affirmation shall be administered to the jury, as is provided for in the fifth section of this act.

Probate judge shall record verdict, render judgment, &c

SEC. 11. The jury shall render their verdict to the probate judge, who shall enter the same on his minutes; and unless for good reason shown, the court shall grant a new trial, the judge shall enter of record a confirmation of the verdict so rendered, and upon the payment of the amount for which the verdict is rendered, and such costs as may be assessed, the

court shall render a judgment, to the effect, that the said corporation shall hold the property in the proceedings mentioned for the purposes for which the same was appropriated, and enter the same upon record, and thereupon such corporation shall hold the same accordingly, and be entitled to execution to put them in possession thereof; Provided, that if, upon certiorari, or a new trial, there shall be a second assesment, which shall exceed in amount that first made, the corporation shall pay the excess to the owner of such property, and the probate judge receiving the amount so first decided to be due, shall retain the same in case a writ of certiorari shall issue, or a new trial be granted; and if the verdict of the second jury shall be less than that of the first, he shall repay to such corporation the difference upon the final disposition of the cause; and provided, further, that in case a new trial shall be granted, at the instance of the owner or owners of the property, and the verdict of the second jury shall be the same as or less in amount than that first rendered, such owner shall pay the whole costs of the second proceeding; and if it shall be more than that first rendered, the costs of such second proceedings shall be paid by the corporation.

Proviso, as to second assessment, new trial, &c.

Sec. 12. The probate court shall have power to enforce the judgment rendered finally in such cause, by execution, or otherwise.

Judgment enforced by execution, &c.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 30, 1852.

AN ACT

Prescribing a Tariff of Freight on Railroads.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be the duty of each and every railroad company whose line of road extends or shall hereafter be extended to any place in the vicinity of, or to a point of intersection with any of the navigable canals or other works of internal improvement belonging to this State, to fix and establish a

Railroads in the vicinity of canals must establish a tariff of rates, &c.

tariff of rates for the transportation of merchandize, produce, and other property consigned to or from such place or point of intersection; and it shall be unlawful for such railroad company to charge or receive any higher rate for transporting similar merchandize, produce or property, over a shorter distance of its road, than is charged or received according to such fixed tariff for transportation to and from such places of intersection as aforesaid.

Publication of rates. Rates not to be evaded until altered, &c.

SEC. 2. That every such railroad company shall publish its tariff of rates on property consigned to and from such places or points of intersection, as provided in the preceding section, and cause the same to be kept conspicuously posted up at the several business stations on its road; and it shall be unlawful for such company, its officers or agents, to charge or receive, directly or indirectly, for transporting any property consigned as aforesaid, any less rate than is designated on such printed card, until the same shall have been changed by an order of the board of directors of such company, and at least ten days notice of such change given by bill or card, to be posted up as aforesaid; and it shall be unlawful for such company, its officers or agents, to evade or attempt to evade by drawback, free warehousing, or in any other mode or manner, the payment of full freightage, according to the printed tariff of rates, as herein provided.

Board of Public Works shall permit railroad bridges over canals, &c.

SEC. 3. That the Board of Public Works is hereby authorized and required to permit each and every railroad company in this State, adopting and adhering to such rate of freight as is prescribed by this act, to construct suitable bridges across any navigable canals and feeders, slackwater improvement, navigable rivers, streams, lake or reservoir, with which any of the canals of this State are united, or with which they are connected, where the line of such road or roads necessarily cross the same, under the supervision of said board, and in such manner as will not interrupt or impede the navigation of such canal, feeder, slackwater improvement, navigable river, stream, lake, or reservoir; Provided, however, that before the permission of said board shall be given for the erection of such bridge or bridges, the railroad company desiring to construct and build the same, shall cause a complete diagram and plan of such bridge, designating the point or place of crossing such canal, feeder, slackwater improvement, river, stream, lake or reservoir, to be filed in the office of the Board of Public Works of this State, and the same shall be approved by said board, or by the acting commissioner in charge of the division of the public works in which said bridge shall be proposed to be built, acting by authority of said board, which approval shall be in writing, and endorsed on said diagram; Provided, further, that no bridge shall be erected under the authority of this act, which shall not be subject, at the proper cost and expense of the company building the same, to such changes and alterations as

Conditions and restrictions.

may become hereafter necessary by any improvement, alterations or enlargements of the level of such canal, feeder, or slackwater improvement.

Existing bridges shall be allowed to remain.

SEC. 4. That in all cases where railroad companies in this State have erected bridges over any of the navigable canals, feeders, slackwater improvements, navigable rivers, stream, lake or reservoir, as aforesaid, which do not impair the navigation thereof, the said Board of Public Works is hereby required to permit the same to remain undisturbed; Provided, that said bridges shall not be less than ten feet in the clear above the top water line; and provided also, that the provisions of this act shall not prevent the construction or continuing of draw-bridges which do not interrupt the navigation of the canals.

Conditions.

Refractory railroads, how punished.

SEC. 5. That if any railroad company shall refuse to comply with any of the provisions of this act, the attorney general, on being notified thereof, shall immediately institute proper legal proceedings, in the name of the State of Ohio, against said company, for the purpose of enforcing the provisions of this act.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

May 1, 1852.

AN ACT

To apportion the State of Ohio into Congressional Districts.

State to be divided into twenty-one districts.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That this State shall be divided into twenty-one districts, for the election of Representatives to Congress, and each district shall choose one representative, in the manner following, to wit:

First district.

The first, second, third, fourth, fifth, ninth, tenth, eleventh, and thirteenth wards of the city of Cincinnati, as they are now constituted, the townships of Fulton, Spencer, Columbia, Anderson, Sycamore, Symmes, and the Eastern precinct of Mill Creek, in the county of Hamilton, shall compose the First district.

Second. The sixth, seventh, eighth, twelfth, fourteenth, fifteenth, and sixteenth wards of the city of Cincinnati, as they are now constituted, the townships of Storrs, Delhi, Green, Miami, Whitewater, Crosby, Colerain, Springfield, and the balance of Mill Creek, in the county of Hamilton, shall compose the Second District.

Third. The counties of Butler, Preble, and Montgomery, shall compose the Third District.

Fourth. The counties of Miami, Dark, Shelby, Auglaize, Mercer and Allen, shall compose the Fourth district.

Fifth. The counties of Van Wert, Paulding, Putnam, Defiance, Williams, Fulton, Lucas, Wood, Henry, and Hancock, shall compose the Fifth district.

Sixth. The counties of Clermont, Brown, Highland and Adams, shall compose the Sixth district.

Seventh. The counties of Warren, Clinton, Greene, Fayette, and Madison, shall compose the Seventh district.

Eighth. The counties of Clark, Champaign, Logan, Union, and Delaware, shall compose the Eighth district.

Ninth. The counties of Hardin, Marion, Wyandot, Crawford, Seneca, Sandusky, and Ottawa, shall compose the Ninth district.

Tenth. The counties of Scioto, Lawrence, Gallia, Jackson, Pike, and Ross, shall compose the Tenth District.

Eleventh. The counties of Fairfield, Hocking, Perry, Athens, Vinton, and Meigs, shall compose the Eleventh district.

Twelfth. The counties of Franklin, Licking, and Pickaway, shall compose the Twelfth district.

Thirteenth. The counties of Morrow, Richland, Huron, and Erie, shall compose the Thirteenth district.

Fourteenth. The counties of Lorain, Medina, Wayne, and Ashland, shall compose the Fourteenth district.

Fifteenth. The counties of Tuscarawas, Knox, Coshocton and Holmes, shall compose the Fifteenth district.

Sixteenth. The counties of Morgan, Washington, and Muskingum, shall compose the Sixteenth district.

Seventeenth. The counties of Belmont, Guernsey, Monroe, and Noble, shall compose the Seventeenth district.

Eighteenth. The counties of Portage, Stark, and Summit, shall compose the Eighteenth district.

Nineteenth. The counties of Cuyahoga, Lake, and Geauga, shall compose the Nineteenth district.

Twentieth. The counties of Ashtabula, Trumbull, and Mahoning, shall compose the Twentieth district.

Twenty-first. The counties of Columbiana, Jefferson, Carroll, and Harrison, shall compose the Twenty-first district.

ABSTRACT OF CONGRESSIONAL DISTRICTS.

Abstract of votes in each district.

1st. District—1st, 2d, 3d, 4th. 5th, 9th, 10th, 11th and 13th wards of the city of Cincinnati, 64,118; Eastern precinct of Mill Creek, Fulton, Spencer, Columbia, Anderson, Symmes and Sycamore townships, in Hamilton county, 16,194—80,312. 2d District—6th, 7th, 14th, 15th, 16th, 8th and 12th wards of the city of Cincinnati, 51,423; balance of Mill Creek, Storrs, Delhi, Green, Miami, Whitewater, Crosby, Colerain and Springfield townships in Hamilton county, 25,115—76,538. 3d District—Butler, 30,794; Preble, 21,748; Montgomery, 38,217—90,759. 4th District—Miami, 24,957; Darke, 20,277; Shelby, 13,956; Auglaize, 11,341; Mercer, 7,712; Allen, 12,116—90,359. 5th District—Vanwert, 4,793; Paulding, 1,766; Putnam, 7,221; Henry, 3,432; Defiance, 6,966; Williams, 8,018; Fulton, 7,780; Lucas, 12,381; Wood, 9,165; Hancock, 16,774—78,296. 6th District—Clermont, 30,449; Brown, 27,334; Highland, 25,781; Adams, 18,943—102,507; 7th District—Warren, 25,560; Clinton, 18,837; Greene, 21,947; Fayette, 12,736; Madison, 10,012—89,092. 8th District—Clark, 22,174; Champaign, 19,743; Logan, 19,168; Union, 12,205; Delaware, 21,814—95,104. 9th District—Hardin, 8,251; Marion, 12,554; Wyandott, 11,169; Crawford, 18,177; Seneca, 27,105; Sandusky, 14,529; Ottawa, 3,310—95,095. 10th District—Scioto, 18,729; Pike, 10,955; Lawrence, 15,247; Gallia, 17,064; Jackson, 12,724; Ross, 32,084—106,803. 11th District—Perry, 20,774; Athens, 18,217; Vinton, 9,353; Fairfield, 30,257; Hocking, 14,119—110,280. 12th District—Franklin, 42,880; Licking, 38,845; Pickaway, 21,110—102,835. 13th District—Morrow, 20,240; Richland, 30,877; Huron, 26,203; Erie, 18,578—95,898. 14th District—Lorain, 26,091; Medina, 24,433; Wayne, 33,045; Ashland, 23,826—107,395. 15th District—Tuscarawas, 31,722; Holmes, 20,458; Coshocton, 25,671; Knox, 28,870—106,721. 16th District—Muskingum, 45,053; Morgan, 23,460; Washington, 26,812—95,325. 17th District—Belmont, 34,599; Guernsey, 25,474; Monroe, 23,367; Noble, 18,960—102,400. 18th District—Portage, 24,387; Stark, 39,888; Summit, 27,481—91,756. 19th District—Cuyahoga, 48,105; Lake, 14,655; Geauga, 17,823—80,583. 20th District—Ashtabula, 27,767; Trumbull, 30,560; Mahoning, 23,733—82,060. 21st District—Columbiana, 33,601; Jefferson, 29,123; Carroll, 17,685; Harrison, 20,460—100,869.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 30, 1852.

AN ACT

Supplementary to an act entitled "An act for the assessment and taxation of all property in this state, and for levying taxes thereon according to its true value in money, passed April 13, 1852.

Real estate to be taxed until a re-valuation is made.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the real property of this State, and the value thereof, as it stood upon the tax duplicate of the year one thousand eight hundred and fifty-one, with such additions for new structures or otherwise, as may be made to the same under the provisions of the "act for the assessment and taxation of all property in this state, and for levying taxes thereon according to its true value in money," passed the thirteenth day of April, in the year eighteen hundred and fifty-two, shall remain on the duplicate for taxation for all purposes that are or may be required by law to be levied and collected, and shall be taxed in the same manner and to the same extent that other property is now or may be taxed at the place where such real property is situated, until such time as a re-valuation of said real property shall be made, in pursuance of the provisions of the act to which this is supplementary.

Where impracticable to complete assessment, the time may be extended by county auditor.

SEC. 2. That in any county in this state, where it shall prove impracticable for assessors to complete their assessments for the year eighteen hundred and fifty-two, within the period limited in the act to which this is supplementary, it shall be lawful for the auditor of said county to extend the time for such assessment till the fourth Monday in May; and in all such cases, the meeting of the county board of equalization shall take place on the first Wednesday after the fourth Monday of May.

Assessments by assessors elected under old laws, to be valid.

SEC. 3. That all assessments of property made by town, township or ward assessors elected for the present year, under the provisions of any law repealed by the act to which this is supplementary, shall be of the same validity as if such assessors had been chosen under the act to which this is supplementary.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

May 1, 1852.

AN ACT

To authorize the Auditor of State to remit and refund taxes in certain cases.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the auditor of state be, and he is hereby authorized and required to direct the treasurers of the several counties of this State, to refund to the persons paying the same, all taxes collected by such treasurers under and by virtue of the 26th section of the act passed February 8th, 1847, entitled "an act to amend the act for levying taxes on all property in this state, according to its true value," passed March 2d, 1846, after deducting from such taxes the cost of collecting the same; Provided, that no taxes shall be refunded when the same have been paid into the State treasury. What taxes are to be refunded.

SEC. 2. That the treasurers of the several counties be and they are hereby authorized and directed to discontinue all suits commenced and now pending in any county of this state, for taxes levied under the 26th section of the act aforesaid, on the defendant in such actions paying all costs that may have accrued therein. Suits for certain taxes to be discontinued.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 30, 1852.

AN ACT

To define the duty of Manufacturers of Salt.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be the duty of all manufacturers of Salt in the State of Ohio, to have the same well and sufficiently drained, to be packed in good barrels, made of good sound seasoned timber; the head and bilge hoops to be well nailed with not Draining and packing of salt. Description of barrels to be used.

less than four nails in each hoop; one head shall be bored with some metallic instrument not less than one inch in size; the name of the manufacturer distinctly branded on the head of each barrel; also, all Salt sold at the licks, shall be marked with the net weight in figures, directly under the same, with good durable paint.

Fine for non-compliance.

SEC. 2. Any manufacturer refusing to comply with the first section of this act, shall be fined for each offence the sum of fifty cents per barrel; the same to be collected by any court having authority, as in case of debt, complaint having been first made by any person taking cognizance of the same.

SEC. 3. Any fines thus assessed and collected, after paying all costs that shall have accrued, shall be paid into the county treasury, for the benefit of the common schools.

Salt may be shipped in bulk.

SEC. 4. Nothing in this act shall be so construed as to prohibit the manufacturers from shipping salt in bulk.

SEC. 5. This act shall be in force from and after its passage.

Acts repealed.

SEC. 6. That the act entitled "An act to repeal an act entitled an act to provide for the inspection of Salt manufactured in the State of Ohio, and creating the office of Inspector, and defining the duties thereof," passed February 5th, 1847, be and the same are hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 30, 1852.

AN ACT

Regulating the use of Jails of adjoining counties.

Commitment to jails of adjoining counties—when fees must be advanced.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever any county of this State shall have been erected and organized for the term of five years, without having provided any or sufficient jails for the confinement

of prisoners within such county, and any person or persons shall be taken from said county on any mesne or final process, in any civil proceeding, action or judgment of, or in any court of said county, or on a charge or conviction of any misdemeanor or crime, for commitment to the jail of an adjoining county, the sheriff or jailer of such adjoining county shall not receive any such prisoner, unless there shall be deposited in his hands, in addition to all fees now allowed him by law, fifty cents for the use of such jail, for each and every such prisoner, for each week such prisoner is ordered to be committed; and the like sum for any period of time less than one week; Provided, that if any such prisoner shall be discharged before the expiration of the term for which he or she was committed, the excess advanced shall be refunded.

Sheriffs or jailors to account for fees.

SEC. 2. That it shall be the duty of the sheriff or jailer of such adjoining county, at the end of each quarter of each calendar year, to account for and pay over to the treasurer of his county, all sums of money thus received.

In case of removal by habeas corpus, county committing liable for fees.

SEC. 3. That whenever a writ of habeas corpus shall be allowed and issued, to bring any prisoner confined in the jail of such adjoining county, as specified in this act, before any judge, to enquire into the cause of the caption and detention of any such prisoner, the county from which such prisoner was sent and committed, shall pay all the costs arising and accruing on any and every such writ of habeas corpus; and upon presentment of a certificate of the clerk of the court of common pleas at the county where such prisoner was imprisoned, as aforesaid, stating the amount of costs on any such writ of habeas corpus, to the county auditor of the county from which such prisoner was sent, he shall draw an order on the treasurer of his county thereby, in favor of said clerk or such person as he shall order, and the said clerk shall pay the same over to the several persons entitled thereto.

Also liable for damages.

SEC. 4. That the county which shall use the jail of an adjoining county, shall be liable to such county for all damages that may be done by any prisoner such county using such jail shall confine therein.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April, 30, 1852.

AN ACT

Fixing the compensation of Clerks, Assistant Clerks, Sergeants-at-arms and Assistant Sergeants-at-arms, of the Senate and House of Representatives of this State.

Clerks and Sergeants-at-arms entitled to $4 per day.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the clerks, assistant clerks, sergeants-at arms, and assistant sergeants-at-arms, of the Senate and House of Representatives of this State, shall each be entitled, during the present, or any succeeding session of the General Assembly, to receive for each day's attendance during the session of the General Assembly, the sum of four dollars.

Allowance of clerks for making index—no other allowance.

SEC. 2. That the clerks of the Senate and House of Representatives, shall receive at the rate of four dollars per day, each, for the time actually employed after the adjournment of the General Assembly, for making out an index to the Journals, to be paid on the order of the Auditor of State, but they shall not receive any other allowance or compensation for services, after the adjournment of the Legislature.

Duty of Sergeant-at-arms after adjournment.

SEC. 3. That it shall be the duty of the Sergeant-at-arms of each House, immediately after the adjournment of the General Assembly, to take charge of all books, stationery, and all other property of every description furnished for, in possession, or for the use of the General Assembly, or any member or officer thereof, and being the property of the State; and such Sergeant-at-arms shall cause the said property to be delivered into the custody of the Secretary of State, who shall give duplicate receipts therefor; one of which receipts shall be by said Sergeant-at-arms, deposited with the Auditor of State, and the said Auditor of State shall allow to said Sergeant-at-Arms for the services required by this section, such sum, not exceeding four dollars per day for the time actually employed, as such Auditor shall deem just and reasonable, to be paid out of the Treasury of the State, as in other cases.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 30, 1252.

AN ACT

To provide for the election of Prosecuting Attorneys, and prescribing their duties.

Election and term of office, of prosecuting attorney.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That there shall hereafter be elected in each county of this State, by the qualified electors of the county, on the second Tuesday of October, in the year eighteen hundred and fifty-three, and biennially thereafter, in the same manner as other state and county officers are elected, one Prosecuting Attorney, whose term of office shall commence on the first Monday in January next after his election, and he shall hold his office for the term of two years, and until his successor shall be elected and qualified; Provided, that in such counties of this state, wherein the term of office of any Prosecuting Attorney shall expire in the year 1852, a Prosecuting Attorney shall be elected at the fall election for county officers in 1852, and biennially thereafter.

His duties.

SEC. 2. That it shall be the duty of said Prosecuting Attorney, and of each prosecuting attorney now in office, in this state, to prosecute for and in behalf of the state, all complaints, suits and controversies in which the state shall be a party, and such other suits, matters and controversies, as shall be directed by law, within the county for which he shall have been elected, in the district court, in the court of common pleas, and in the probate court; and to pay over forthwith, to the county treasurer, all moneys belonging to said county, which he has or may hereafter collect, or which may come into his hands by way of fines, forfeitures, costs, or otherwise, and take the treasurer's duplicate receipts therefor, one of which he shall file with the auditor of his proper county; and upon failure to pay over said moneys, as herein required, said prosecuting attorney shall be removed from office, in manner as prescribed in the eighth section of this act.

His oath and bond.

SEC. 3. That each and every prosecuting attorney, hereafter elected, under the first section of this act, shall, before entering upon the duties of his office, take an oath or affirmation, to be endorsed upon his commission, to support the constitution of the United States, and of this state, and faithfully and impartially to discharge the duties of his office; which said oath or affirmation may be administered by any common pleas judge of this state, or by the probate judge of the county in which he is elected; and said prosecuting attorney shall, before entering upon the duties of his office, give bond, with sufficient sureties, (to be approved of by the court of common pleas, or

the probate court,) to the State of Ohio, in any sum not less than one thousand dollars, conditioned that he will, according to the best of his skill and abilities, faithfully discharge all the duties enjoined on him by law, and also, that he will honestly and faithfully pay over all moneys by him received as such prosecuting attorney, in the manner directed by law, which said bond shall be filed with the county treasurer.

His compensation.

SEC. 4. That the prosecuting attorney for each county in this state, shall receive such compensation for his services in the court of common pleas or other court having like criminal jurisdiction, for each term, as shall be allowed by the judge of such court, of the county wherein such services shall have been rendered; the amount of such services, in both civil and criminal business pertaining to his office, to be determined by the court of common pleas annually, at their first term after the first Monday in February; and he shall also receive such compensation for his services in the probate court, semi-annually, as shall be allowed by the probate court of the county wherein such services shall have been rendered; the amount of such services to be determined by the probate court, annually hereafter, on or about the first Monday in February; Provided, however, that the probate court may, at any time after the passage of this act, make an allowance to the prosecuting attorney for his services rendered for the year eighteen hundred and fifty-two; all of the allowances made by the courts to prosecuting attorneys, contemplated by this act, to be paid out of the county treasury, on the order of the county auditor.

His duty in respect to bonds of other county officers.

SEC. 5. That it shall be the duty of the county auditor, whenever any officer of his county shall be elected or appointed, who is required to give bond for the discharge of his duties, to call upon the prosecuting attorney of his county, to attend to the same; and it shall be the duty of said prosecuting attorney, upon such summons, to prepare the proper bonds, in legal form, to examine and take special care that the forms of the same, together with the acceptance by the proper authorities, the signing and sealing thereof, and all the endorsements thereon, are in conformity to law; and the bond of no county officer shall be accepted and approved by the authority authorized to approve and accept the same, until said bond has been seen and inspected by the prosecuting attorney of the proper county; and the county commissioners shall annually make such allowance to the prosecuting attorney for his services, under this section, as they shall deem just and reasonable.

Court may appoint an assistant, on application.

SEC. 6. That on the application of any prosecuting attorney, during the term of the court of common pleas, or the district court, the court may, if they think necessary, appoint an assistant prosecuting attorney, for whose services, the court in which the services shall be rendered, shall make such allowance as they shall deem just and reasonable, to be paid out of the county treasury, on the order of the county auditor.

SEC. 7. That if the office of prosecuting attorney, in any county of this state, shall at any time become vacant, by death, disability, removal or resignation, or from any other cause whatever, the court of common pleas shall appoint a special prosecuting attorney, who shall be qualified and give bond as required by the third section of this act; and said special prosecuting attorney shall hold his office until the proper prosecutor shall resume his duties; and, in case of death, resignation, removal from office, or removal out of the county, until the next October election succeeding his appointment, and until his successor shall be elected and qualified; and he shall perform the same duties, and receive the same compensation, as is pointed out and provided for by this act. As to vacancies.

SEC. 8. That it shall be the duty of the court of common pleas, in the several counties of this state, upon complaint in writing, in due form of law, signed by the person or persons making such complaint, and containing distinct charges and specifications against the prosecuting attorney of said county, for a wanton and wilful neglect of his duty as prosecuting attorney for said county, to cause such complaint to be filed and entered upon their docket, and notice thereof to be given to the prosecuting attorney so charged; and upon the answer thereto, of said prosecuting attorney, to be filed within a reasonable time, such the court shall fix and limit, to proceed to hear the evidence, in relation thereto; and if it shall appear to the satisfaction of said court, that the prosecuting attorney thus charged, has wantonly and wilfully neglected to perform his duties as required by law, the court shall, at the cost of said prosecuting attorney, remove him from office, and shall forthwith proceed to appoint another to fill the vacancy, until the next annual election; but if the court shall, upon hearing, be of opinion that said prosecuting attorney is not guilty, then the court shall enter up judgment for costs against the person or persons making such complaint, to be recovered as upon judgment at law. Complaint of neglect of duty, &c., made to common pleas. If found guilty, shall be removed.

SEC. 9. That no person shall be eligible as a candidate for, or be elected to, the office of prosecuting attorney, who is not an attorney and counsellor at law, duly licensed to practise in this State; and no prosecuting attorney, elected in pursuance of this act, shall be a member of the General Assembly of this State; and no county treasurer, county auditor, county recorder, county surveyor or sheriff, shall be eligible as a candidate for, or elected to said office of prosecuting attorney. Who is eligible, and ineligible.

SEC. 10. That the act entitled "an act to provide for the election of prosecuting attorneys," passed January 29th, 1833, and the act entitled "an act to amend the act entitled an act to provide for the election of prosecuting attorneys, &c.," passed February 26th, 1839, and the act entitled "an act to provide for the security of bonds given by county officers," passed March 21st, 1840, be, and the same are hereby repealed; Pro- Acts repealed.

vided, that all prosecuting attorneys, in office at the time of the passage of this act, shall continue in office for the same term for which they were elected, and until their successors shall be elected and qualified.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 30, 1852.

AN ACT

To Regulate the Fees of Clerks of the Courts of Common Pleas.

Fees of clerks of common pleas.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the Clerks of the several Courts of this State, shall, for services rendered in civil cases, receive the fees hereinafter provided, and no more.

Specifications.

SEC. 2. For docketing each cause, to be charged but once, six cents; for entering the appearance of plaintiffs and defendants, eight cents each; filing precipe, four cents; for taking affidavit, twelve cents; for issuing capias, summons, subpœna in chancery, writ of attachment, writ of replevin, writ of certiorari, writ of injunction, writ of error, supersedeas, citation or ne exeat, or any other mesne process under seal, twenty-five cents; for entering order to advertise, twenty-five cents; for taking bond, twenty-five cents; for taking special bail, twenty-five cents; for filing declaration, plea, demurrer, joinder, bill, answer, or any other paper necessary to complete the pleading in any cause, six cents, and for all other papers, four cents each; for entering the return of any writ of mesne process, six cents; for issuing venire for a jury, twelve cents, to be charged in each cause at law where the issue is made up; for empanneling regular jury and administering the oath, twelve cents; and for giving a certificate to the county auditor for the pay of each talesman juror, eight cents; and for calling and entering each talesman juror, six cents; for swearing constable, four cents; for issuing subpœna, where there is but one witness named, twelve cents, and for every additional name, four cents; for swearing each witness,

four cents; for entering attendance of each witness, six cents, and for giving order to each witness for fees, eight cents; for entering each cause on the bar and court calendar of each term, ten cents; for indexing each cause, ten cents for each and every term the same shall remain on the docket; for entering judgment on journal, ten cents; for recording general verdict, ten cents; for entering decree or other order on journal, ten cents for each one hundred words; for transcribing judgment or orders on the docket, ten cents; for entering satisfaction of judgment or decree, on record, twelve cents; for entering every special rule, six cents; for entering every continuance, discontinuance or retraxit, ten cents; for entering a rule of reference, twelve cents; and giving copy thereof under seal, twenty-five cents; for entering notice of appeal, ten cents; for drawing cost bill, thirty-five cents, which shall be taxed but once in each cause; for making up a complete record in each cause, ten cents for each one hundred words such record may contain; for making out copies of process, pleadings, records, or any proceedings in a cause, with the seal annexed, when required by either of the parties or the law, ten cents for each one hundred words; for entering allowance of an injunction, writ of error, certiorari, or habeas corpus, ten cents; for issuing execution, thirty-five cents; for docketing each execution issued, ten cents, and for making direct and reversed index, to each execution issued, ten cents; and for issuing writs of venditioni exponas and orders of sale, and scire facias, thirty-five cents each, and ten cents for each additional one hundred words said writ may contain over that number; for recording returns on writs of execution, venditioni exponas and orders of sale, ten cents for each one hundred words; for issuing writs of partition, fifty cents; for attending to the striking of a special jury and issuing venire therefor, one dollar; for each writ or process under seal, not herein provided for, fifty cents; for each certificate to which the seal of the court is required, and not herein provided for, fifty cents.

Fees in criminal cases; how paid.

SEC. 3. That the several Clerks of courts of this State, shall receive the same fees in criminal cases as are allowed in the various sections of this act for similar services in civil cases; and the same shall be paid out of the county treasury, in all cases wherein the State fails to convict, or wherein the defendant proves insolvent.

For services rendered grand jury; how paid.

SEC. 4. That for services rendered to the grand jury, the Clerks of the several courts of this State shall receive the same fees as are allowed for similar services in civil cases in the second section of this act, the same to be paid out of the county treasury.

For apportioning jurors, &c.

SEC. 5. That for apportioning jurors to the several townships, copying the names, and placing the same in the jury box, the several clerks of the courts of this State shall receive the

sum of three dollars annually, to be paid out of the county treasury.

For receiving poll books, &c.

SEC. 6. That for receiving poll books of justices' election, certifying elections therefrom, administering oath, and entering the same of record, the several clerks of the courts of this State shall be entitled to one dollar, to be paid by each justice on receiving his commission.

Fees under naturalization laws.

SEC. 7. That the several clerks of the courts of this State shall receive the following fees under the naturalization laws of Congress: For entering a declaration of intention to become a citizen of the United States, and for a certified copy thereof under seal, twenty-five cents; for entering the final admission of an alien to the right of citizenship, and a certified copy thereof, under the seal, twenty-five cents.

For miscellaneous services.

SEC. 8. That the several clerks of the courts of this State, shall receive from the treasurers of their respective counties, the following fees, for miscellaneous services performed by them respectively: For certifying fees of judges and clerks of all elections, eight cents each; for certifying the enumeration of white male citizens over the age of twenty-one years, to the secretary of State, one dollar; for making up and completing general indexes of all judgments and decrees, twelve cents for each cause so indexed; for making out lists of unclaimed costs and paying same to treasurer, five per cent. on the amount of the money paid; for reporting annually to the county commissioners the amount of fines assessed by their respective courts, one dollar.

For license to auctioneers, peddlers, &c.

SEC. 9. That the several clerks of the courts of this State, shall be entitled to receive the sum of fifty cents for issuing license to an auctioneer, peddler, ferry keeper, or for any other license granted by their respective courts.

Stationery, &c., to be furnished by county commissioners.

SEC. 10. That the county commissioners shall furnish to the clerks of courts of their respective counties, all blank books, stationery, and all other things necessary to the prompt discharge of their duties.

Acts repealed.

SEC. 11. That the act to regulate the fees of clerks in cases of naturalization, passed March 12th, 1839, and sections two, four and twenty-three of the act to regulate the fees of officers in civil and criminal cases, passed March 5th, 1831, and section four of the act for the disposition of unclaimed costs, passed March 18th, 1839, be, and the same are hereby repealed.

Interest not to be taxed.

SEC. 12. No interest shall be taxed or collected on the cost bill of any suit or proceeding, had in any of the courts of this State.

SEC. 13. This act to take effect and be in force from and after its passage.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

May 1, 1852.

AN ACT

To amend the act entitled "an act to provide for the State Printing," passed April 16, 1852.

Form and style of printing journals.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the journals of the Senate and House of Representatives shall be printed in super-royal octavo form, on neat long primer type, and in as close and compact order as is consistent with good workmanship, without unnecessary blanks or broken pages.

Section of former act repealed.

SEC. 2. That section 4, of "an act to provide for the State Printing," passed April 16, 1852, which reads as follows: "The journals shall be printed in medium octavo form, on neat long primer type, and in as close and compact order as is consistent with good workmanship, without unnecessary blank or broken pages, each to contain as near as may be, fifteen hundred ems, including head and foot lines," be, and the same is hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.

WILLIAM MEDILL,
President of the Senate.

May 1, 1852.

AN ACT

Fixing the salaries of certain State Officers.

Salaries of State officers.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the several officers hereinafter mentioned, shall be entitled to receive for their services, the following sums, annually: The Governor, eighteen hundred dollars. The Lieutenant Governor, five dollars per day during the sitting of the Legislature. The judges of the Supreme Court, seventeen hundred dollars. The Judges of the Common Pleas Court, and the

Judge of the Criminal Court of Hamilton county, fifteen hundred dollars. The Secretary of State, fourteen hundred dollars. The Treasurer of State, fifteen hundred dollars. The Auditor of State, sixteen hundred dollars. The State Librarian, six hundred dollars. The Attorney General, one thousand dollars, and three per cent. on all collections made for the state by him; Provided, the aggregate amount of his compensation, including said per cent. shall not exceed fourteen hundred dollars per annum, during his term of office. The members of the Board of Public Works, each, fifteen hundred dollars, and no more, in the form of traveling expenses or otherwise; all which salaries shall be payable in equal instalments, at the state treasury, on the the second Monday of May, second Monday of August, second Monday of November, and the second Monday of February.

When and how paid.

Salaries of certain judges.

SEC. 2. That the Judges of the Commercial and Superior Courts of Cincinnati, and the Judge of the Superior Court of Cleveland, shall each receive a salary at the rate of fifteen hundred dollars per annum, from the second day of February, 1852, for the time their respective Courts shall continue in existence, which shall be payable in the same manner as provided for the payment of the judges of the other Courts of the state.

Former acts repealed.

SEC. 3. All laws and parts of laws fixing the compensation of officers named in the foregoing sections, so far as they refer to the officers herein named, be, and the same are hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.

WILLIAM MEDILL,
President of the Senate.

May 1, 1852.

AN ACT

To amend the act to provide for the appointment of Notaries Public, and prescribing their duties, passed March 15, 1852, and to repeal section 3 of said act.

Third section of former act, how amended.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the third section of the act to which this is

amendatory, be, and is hereby so amended as to read as follows, to wit: That each notary public, before entering upon the duties of his office, shall provide himself with an official seal, with which he shall authenticate his official acts, upon which shall be engraven the arms of this state, the words "Notarial Seal," and the name of the county in which he resides; which seal, together with his official register, shall be exempt from execution; and on the death or removal from office of such notary public, his register shall be deposited in the office of the recorder of deeds in the county where such notary resides; Provided, that it shall be lawful for any notary public, duly commissioned as such, to use, in the authentication of his official acts, a seal of the similitude of those authorized by law previous to the passage of the act to which this is amendatory; and provided, further, that whenever it shall be necessary for any such notary public to procure a new seal, such new seal shall be of the description hereinbefore first designated.

Section repealed.

SEC. 2. That the third section of the act to which this is amendatory, be and the same is hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.

WILLIAM MEDILL,
President of the Senate.

May 1, 1852.

AN ACT

To provide for the organization of Cities and Incorporated Villages.

Existing corporations, how organized under this law.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio.* That all corporations which existed when the present constitution took effect, for the purposes of municipal government, either general or special, and described or denominated in any law then in force, as cities, towns, villages, or special road districts, shall be, and they are hereby organized into cities, and incorporated villages, with the territorial limits to them respectively prescribed, or belonging, in manner follow-

Classification.

ing: All such municipal coporations, as in any such law are denominated cities, shall be deemed cities; and those denominated towns, villages, or special road districts, shall be deemed incorporated villages; to be respectively governed as cities, or incorporated villages, and in case of the latter, for general or special purposes, as provided in this act; and all acts now in force, for the organization or government of any such municipal corporations, shall be, and they are hereby repealed; Provided, that such repeal shall not destroy, or bar, any right of property, action, or prosecution, which may be vested, or exist, at the time this act takes effect.

New corporations, how organized.

SEC. 2. When the inhabitants of a part of any county, not embraced within the limits of any city or incorporated village, shall desire to be organized into an incorporated village, they may apply by petition, in writing, signed by the inhabitants so applying, to be in number not less than thirty qualified voters, to the county commissioners of the proper county; which petition shall describe the territory proposed to be embraced in such incorporated village, and have annexed thereto an accurate map or plat thereof; shall state the name proposed for such incorporated village, and in case the same be for the purpose of a road district only, shall so state, and shall also name the person or persons authorized to act in behalf of the petitioners in prosecuting said petition.

Petitions to be filed, &c. Duty of commissioners.

SEC. 3. When any such petition shall be presented to the county commissioners, they shall cause the same to be filed in the office of the county auditor, to be there kept, subject to the inspection of any person or persons interested, until the time appointed for the hearing thereof; the said commissioners shall, at or before the time of such filing, fix and communicate to such petitioners, or their agent, a time and place for the hearing of such petition, which time shall not be less than sixty days after the time of such filing; and thereupon the petitioners or their agents, shall cause a notice to be published in some newspaper of general circulation in the county, not less than six consecutive weeks, and a copy of such notice to be posted at some public place, within the limits of the said proposed incorporated village, not less than six consecutive weeks before the time of such hearing; which notice shall contain the substance of said petition, and state the time and place appointed for the hearing thereof.

Proceedings to be public—contests and amendments.

SEC. 4. Every such hearing shall be public, and may be adjourned, from time to time, or from place to place, and any person interested, may appear and contest the granting of said petition, and affidavits in support of, or against said petition, which may be prepared and submitted, shall be examined by said commissioners, and they may, in their discretion, permit the agent, or agents, named in the original petition, to amend or change the same, except that no amendment shall be permitted whereby

territory not before embraced shall be added, or the character of the proposed incorporated village changed, from general purposes to special, or from special to general, without appointing another time for hearing, and requiring new notice to be given as above provided.

Further duties of commissioners, in case proceedings are regular.

SEC. 5. If the county commissioners, after hearing such petition, shall be satisfied that at least fifty qualified voters actually reside within the limits described in the petition, and that said petition has been signed by a majority of them; that said limits have been accurately described, and an accurate map or plat thereof made and filed; that the name proposed for the said incorporated village, is proper and sufficient to distinguish it from others of like kind in the State; and it shall moreover, be deemed right and proper, in the judgment and discretion of said commissioners, that said petition shall be granted; then, they shall make and endorse on the said petition, an order, to the effect, that the incorporated village, as named and described in the petition, may be organized; which order said commissioners, or a majority of them, shall sign and deliver, together with the petition and the map or plat, to the recorder of their county, whose duty it shall be to record the same as soon as may be, in the proper book of records, and to file and preserve in his office the original papers, having certified thereon, that the same have been properly recorded; and it shall also be the duty of said recorder, to make out and certify, under his official seal, two transcripts of said record, one of which he shall forward to the Secretary of State, and the other he shall deliver to the agent, or agents, of said petitioners, with a certificate thereon, that a similar transcript has been forwarded to the Secretary of State, as above provided.

Duties of recorder.

When records completed, to be deemed an incorporated village.

SEC. 6. So soon as said record shall be made, and said transcripts certified and forwarded, and delivered, the inhabitants within the limits described in the petition, shall be deemed an incorporated village, to be organized and governed under the provisions of this act, in like manner as if specially named therein; and so soon as said incorporated village shall be actually organized, by an election of its officers, as hereinafter provided, notice of its existence as such, shall be taken in all judicial proceedings in the State.

Notice for election of officers, not to be given under two months.

Injunction may be taken.

SEC. 7. Two months shall elapse from the time such transcripts are forwarded and delivered, before notice shall be given of an election of officers, in any such incorporated village; and any person interested, or the prosecuting attorney of any county, may, at any time within said two months, make complaint in writing, in the nature of an application for an injunction, to the court of Common Pleas of the county, or to the Judge thereof in vacation, having given at least five days notice thereof, and furnished a copy of the complaint to the agent or agents of the petitioners, for the purpose of having the organization of such proposed incorporated village prevented. It shall be the duty of the court or judge to hear such complaint

in a summary manner, receiving answers, affidavits and proofs, as may be deemed pertinent; and if it shall appear that the proposed incorporated village does not contain the requisite number of inhabitants, or that a majority of them have not signed the petition, or that the limits of said proposed incorporated village are unreasonably large, or small, or are not properly and sufficiently described, then the said court or judge shall order that the record of said incorporated village shall be annulled; and it shall be the duty of the county recorder to endorse on the record the order so made, and to certify and transmit to the Secretary of State a copy thereof; and thereupon the record shall be of no effect; but such proceeding shall in no manner, bar a subseqnent petition to the county commissioners.

After two months, agents may give notice of election.

SEC. 8. Unless the agent or agents of the petitioners shall, within two months after a transcript shall be delivered, as above provided, be notified of a complaint having been made to the court of common pleas, or a judge thereof, then at the end of said two months, and in case of any such complaint, then at the end of said two months, and after the dismission of said complaint, the said agent or agents shall give public notice, by posting the same at three or more public places within the limits of such incorporated village, of the time and place of holding the first election for officers of said incorporated village, which election shall be conducted, and the officers elected and qualified, in the manner prescribed by law in like cases; Provided, that if said election shall be had at any time other than that prescribed by law for the regular election of such officers, the officers elected shall continue in office so long, and in like manner, as if they had been elected at the next preceding period of such regular election.

How contiguous territory may be annexed.

SEC. 9. When the inhabitants of a part of any county, contiguous and adjoining to any city or incorporated village, shall desire to be annexed to such city or incorporated village, they may apply, by petition in writing, to the county commissioners of the proper county, signed by the inhabitants so applying, to be in number not less than a majority of the qualified voters, which petition shall describe the territory proposed to be annexed, and be accompanied by an accurate map or plat thereof; and shall name the person or persons authorized to act in behalf of the petitioners in prosecuting said petition.

Duty of commissioners, as to annexing contiguous territory.

SEC. 10. When any such petition shall be presented to the said county commissioners, they shall cause the same to be filed, and like proceedings shall be had for a hearing thereof, as is prescribed by the fourth and fifth sections of this act; and if the county commissioners, after such hearing, shall be satisfied that at least ten qualified voters, and having a freehold interest in the territory proposed to be annexed, and who actually reside within the limits described in the petition, and that the said petition has been signed by a majority of them, that

the said limits have been accurately described, and an accurate map thereof made and filed; and it shall moreover be deemed right and proper, in the judgment and discretion of said commissioners, that said petition should be granted; then they shall make and endorse on the said petition, an order, to the effect that the territory described in the petition may be annexed to, and become part of the city or incorporated village named in said petition; which order said commissioners, or a majority of them, shall sign and deliver, together with the petition and map or plat, to the clerk of such city or incorporated village.

How annexation may be resisted.

SEC. 11. No further action shall be taken on such order for the space of two months; and within that time any person interested, or the prosecuting attorney of the county, may, in like manner as is provided in the seventh section of this act, institute a proceeding to have the proposed annexation prevented; and if it shall appear to the court or judge, hearing such proceeding, that a majority of the qualified voters, freeholders as aforesaid, actually residing within the limits described in such petition, have not signed the same, or that the territory proposed to be annexed is unreasonably large, or that said territory is not properly and sufficiently described, he shall make an order to restrain any further action, under the order of the county commissioners, and annulling the same; but such proceeding shall not bar any subsequent petition to the county commissioners.

How annexation to be consummated.

SEC. 12. When any complaint shall be made, as before provided, to prevent an annexation of territory, notice thereof shall be given, as well to the proper authorities of such city or incorporated village, as to the agent or agents of the petitioners; and if no such notice shall be given, within two months after the delivery of the order of the county commissioners, to the clerk of said city or incorporated village, then, at the end of said two months, and within one year, and in case of any such complaint, then at the end of said two months, and after the dismission of said complaint, and within one year thereafter, the proper authority of such city or incorporated village, shall provide by ordinance, or resolution, for the submission to the qualified voters, at the next regular annual election of municipal officers, of the question whether such annexation shall be made; and if a majority of the qualified voters of such city or incorporated village, voting at such election, shall vote in favor of such annexation, then, on the return of such vote to the proper authority of such city or incorporated village, a resolution or ordinance shall be adopted or passed, declaring that the territory described in the petition, has been annexed to, and is a part of such city or incorporated village; and it shall be the duty of the clerk of such city or incorporated village, to make out two copies of the petition, plat, order of the county commission-

ers, abstract of votes and resolutions or ordinances, in relation to such annexation, with a certificate that the same are correct, attested by the seal of such city or incorporated village, and he shall deliver one of the said copies to the recorder of the county, whose duty it shall be, having first made a record thereof in the proper books of record, to file and preserve the same; and the other of said copies, shall be forwarded by the clerk of said city or incorporated village, to the secretary of state.

Inhabitants of annexed territory to enjoy equal rights, &c.

SEC. 13. So soon as said resolution or ordinance declaring such annexation, has been adopted or passed, and said copies transmitted, delivered and recorded, the said territory shall be deemed, and taken to be a part and parcel of the limits of said city or incorporated village; and the inhabitants residing thereon, shall have and enjoy all the rights and privileges of the inhabitants within the original limits of such city or incorporated village.

How corporations may proceed to annex contiguous territory.

SEC. 14. When any municipal corporation, shall desire to annex any contiguous territory thereto, not embraced within the limits of any city or incorporated village, it shall be lawful for the trustees or council of the corporation proposing such annexation, to submit the question to the qualified electors of the corporation, by an ordinance passed for that purpose, at least one month before some general election in April or October; if a majority of the qualified voters of the corporation voting on the question, shall vote in favor of such annexation, the said corporation shall present to the county commissioners of the proper county, a petition, praying for such annexation, which petition shall describe the territory proposed to be annexed to such municipal corporation, and have attached thereto an accurate map or plat thereof; and like proceedings shall be had upon said petition, as are provided in the third, fourth, fifth, sixth and seventh sections of this act, so far as the same may be applicable; and if, within two months after a transcript shall be delivered as above provided, no notice of a complaint against such annexation shall be given, according to the provisions of this act, then, at the end of said two months, and in case of any such complaint, then at the end of said two months, and after the dismission of said complaint, the said contiguous territory proposed to be annexed, shall be in law deemed and taken to be included in, and shall be a part of said municipal corporation, and the inhabitants thereof shall, in all respects, be citizens thereafter of the said municipal corporation.

How two or more contiguous corporations may be united.

SEC. 15. When any municipal corporation, the territory of which shall be contiguous to and adjoining that of another municipal corporation, shall desire to be annexed thereto, it shall be lawful for the trustees or council of the corporation proposing such annexation, to submit the question to the qualified electors

of the corporation, by an ordinance passed for the purpose, at least one month before some general election in April or October; the trustees or council of the municipal corporation to which the annexation is proposed to be made, may in like manner submit the question to its qualified voters; if a majority of the qualified voters of each of the two corporations voting on the question at the same general election, shall vote in favor of such annexation, the trustees or council of each corporation may appoint three commissioners, who shall arrange the terms and conditions of the annexation, and submit the same for approval to the trustees or council of the respective corporations; and the same being duly approved, by an ordinance passed for the purpose by each corporation, certified copies thereof, signed by the presiding officer of the trustees or council of each corporation, and the clerk, and attested by its corporate seal, shall be filed in the office of the clerk of the corporation to which such annexation shall be proposed to be made; and it shall be the duty of such clerk, under the direction of such corporation, to make out and certify two transcripts of all the ordinances, abstracts of the returns of the votes, and other papers relating to such annexation, one of which shall be filed in the office of the recorder of the county, who, having made a record thereof, shall file and preserve the same; and the other of said copies shall be forwarded by said clerk to the Secretary of State.

Same subject continued.

SEC. 16. So soon as said transcripts shall be certified and delivered, and forwarded, the said annexation shall be deemed complete; and it shall be lawful for the corporation to which the annexation has been made, to pass such ordinances as will carry into effect the terms of such annexation, so far as the same shall not be inconsistent with this act, and with the regular and proper government of such corporation under the provisions thereof; and any part of such terms, so inconsistent, shall be deemed void; but their nullity shall in no manner affect such annexation; and the two former corporations shall thereafter be governed as one, embracing the territory of both, and the inhabitants of all such territory shall have equal rights and privileges; Provided, such annexation shall not affect, or in any wise impair any rights or liabilities existing at the time of such annexation, either in favor of or against said corporations; and suits founded upon such rights and liabilities may be commenced, and pending suits prosecuted and carried to final judgment and execution, the same as though such annexation had not taken place.

Secretary of State to preserve records, and report annually.

SEC. 17. It shall be the duty of the Secretary of State to receive and preserve in his office, all papers transmitted to him, in relation to the organization of incorporated villages, or the annexation of territory to any city or incorporated village, or the consolidation of municipal corporations, and he shall

prepare for, and submit to the General Assembly, at each regular session thereof, a report, showing the names, location, and limits of each incorporated village, organized under this act, previous to the time of making up of said report; and also the cities and incorporated villages, the limits of which have been increased under this act, previous to the same time, and the limits so added.

Powers and immunities of cities or villages incorporated under this act.

SEC. 18. Cities or incorporated villages, organized or to be organized under this act, be and they are hereby declared to be bodies politic and corporate, under the name and the style of the city of ——, or the incorporated village of ——, as the case may be; capable to sue and be sued, to contract and be contracted with; to acquire, hold and possess property, real and personal; to have a common seal, and to change and alter the same at pleasure; and to exercise such other powers, and to have such other privileges, as are incident to municipal corporations of like character or degree, not inconsistent with this act, or the general laws of this State.

Same subject.

SEC. 19. All municipal corporations organized, or to be organized under this act, except incorporated villages for special purposes, shall have the general powers and privileges, and be subject to the rules and restrictions granted and prescribed in the twenty succeeding sections of this act.

As to nuisances.

SEC. 20. They shall have power to prevent injury or annoyance within the limits of the corporation, from any thing dangerous, offensive or unhealthy, and to cause any nuisance to be abated; to regulate the transportation and keeping of gunpowder or other combustibles, and to provide or license magazines for the same; to prevent and punish fast or immoderate riding of horses, or driving or propelling of vehicles through the streets; to establish and regulate markets; to provide for the measuring or weighing of hay, wood, coal, or any other article for sale; to regulate the transportation of articles through the streets, and to prevent injuries to the streets from overloaded vehicles; to prevent any riots, noise, disturbances, or disorderly assemblages; to suppress and restrain disorderly houses, houses of ill fame, billiard tables, nine or ten pin alleys or tables, and ball alleys, and to authorize the destruction of all instruments or devices used for the purpose of gaming; and to protect the property of the municipal corporation, and its inhabitants, and preserve peace and good order therein.

Gunpowder.

Immoderate riding and driving.

Markets.

Hay, wood and coal.

Transportations through streets.

Riots, &c.

Houses of ill-fame.

Gaming and gambling.

Preservation of the peace.

Buildings and Fire.

SEC. 21. They shall have power to provide for the regular building of houses; to make regulations for the purpose of guarding against dangers from accidents by fire; and on petition of the owners of not less than two-thirds of the ground included in any square, to prohibit the erection in any such square, of any building, or any addition to any building, more than ten feet high, unless the outer walls thereof be made of brick and mortar, or of iron, or stone and mortar, and provide for the removal of any buildings, or additions, erected contrary to such prohibition.

As to water works.

Sec. 22. They shall have the power to provide a supply of water, by the construction and regulation of wells, pumps, cisterns, reservoirs, or water works; to prevent the unnecessary waste of water, to prevent pollution of the water, and injuries to the water works; and for the purpose of establishing or supplying water works, any municipal corporation may go beyond its territorial limits; and its jurisdiction to prevent or punish any pollution or injury to the stream or source of water, or to the water works, shall extend five miles beyond its corporate limits.

As to interments.

Sec. 23. They shall have power to regulate the burial of the dead; to provide without the limits of the corporation, places for the interment of the dead, and to prevent any such interment within such limits, and to carry into effect any prohibition against interments within the limits of the corporation; may not only impose proper fines and penalties, but shall also have power to cause any body interred contrary to such prohibition, to be taken up and buried without the limits of the corporation.

As to cattle, horses and swine.

Sec. 24. They shall have power to restrain and regulate the running at large of cattle, horses, swine, sheep, and other animals, the property of any person residing within the limits of the corporation; and to authorize the distraining, impounding and sale of the same, for the penalty incurred, and cost of proceeding; to prevent the running at large of dogs, and injuries and annoyance therefrom, and to authorize the destruction of the same, when at large, contrary to any prohibition to that effect.

Theatrical exhibitions, lectures, &c.

Sec. 25. They shall have power to regulate or prohibit all theatrical exhibitions and public shows, and all exhibitions of whatever name or nature, for which money or any other reward, is in any manner demanded or received; Provided, that lecturers on scientific, historical or literary subjects, shall not come within the provisions of this section; to regulate or prohibit the sale of all horses or other domestic animals at public auction, in the streets, alleys or highways; to regulate all carts, wagons, drays, hackney coaches, omnibusses, and every description of carriages which may be kept for hire, and all livery stables; to regulate taverns, and other houses for public entertainment, and to regulate or prohibit ale and porter shops and houses, and places for significant or habitual resort for tippling and intemperance.

Sale of horses, &c.

Carriages and livery stables.

Taverns, ale houses, &c.

Streets, alleys, &c.

Sec. 26. They shall have power to lay off, open, widen, straighten, extend and establish, to improve and keep in order and repair, and to light, streets, alleys, public grounds, wharves, landing places, and market spaces; to open and construct, and keep in order and repair, sewers and drains; to enter upon or take for such of the above purposes as may require it, land or material; and to assess and collect a charge on the owners of

any lots or lands, or on the lots or lands through or by which a street, alley, or public highway shall pass, for the purpose of defraying the expense of constructing, improving, repairing, or lighting such street, alley, or public highway, to be in proportion either to the feet front of the lot, or land abutting on such street, alley, or highway, or to the value of such lot or land, as assessed for taxation under the general law of the state, as such municipal corporation may in each case determine; and they shall also have power to provide by ordinance, for the lighting of any railway, or any portion thereof, which may be located within the corporate limits of such town or city, under such restrictions and upon such terms as the city or town council shall prescribe.

As to the appropriation of private property.

SEC. 27. When it shall be deemed necessary by any municipal corporation, to enter upon, or take private property, as above provided, an application in writing shall be made to the court of common pleas of the proper county, or to the judge thereof in vacation, which application shall describe as correctly as may be, the property to be taken, the object proposed, and the owners of the property, and of each lot or parcel thereof known; notice of the time and place of such application shall be given, either personally, in the ordinary manner of serving legal process, or by publishing a copy of the application, with a statement of the time and place at which it is to be made, for three weeks next preceding the time of the application, in some newspaper of general circulation in the county; if it shall appear to the court or judge, that such notice has been served five days before the time of application, or has been published as above provided, and that such notice is reasonably specific and certain, then the court or judge may set a time for the enquiry into, and assessment of compensation, by a jury in the court of common pleas; and if such court shall not be in session at the day so fixed for such enquiry, and assessment of compensation, then the judge of the court of common pleas of the subdivision in which such property is situated, or in case of his absence, interest or disability, then any other judge of said court within the district, shall hold a special term of said court, for the purpose of hearing and determining such enquiry and assessment, and shall direct a jury to be summoned for the purpose of making such enquiry, in the same manner that petit jurors are summoned in the court of common pleas for other purposes; which enquiry and assessment shall be made at the time appointed, unless, for good cause, continued to another day to be specified; if at the time of such application it shall appear that any of the owners of property are infants or insane, a guardian ad litem shall be appointed; the municipal corporation may be required to file a more full and accurate description of the property to be taken, and the object proposed, and maps, plats, and surveys if necessary or

proper. The assessment shall be made so that the amount payable to each owner may be ascertained, either by allotting it to each owner by name, or on each lot or parcel of land, and the enquiry and assessment shall in other respects be made by the jury, under such rules and instructions as shall be given by the court. The jury shall be sworn to make the whole enquiry and assessment, but may be allowed to return a verdict as to part, and be discharged as to the rest, in the discretion of the court; and in case a jury shall be discharged from rendering a verdict in whole or in part, another shall be impanneled at the earliest convenient time, who shall make the whole enquiry and assessment, or the part not made, as the case may be.

Same subject.

SEC. 28. So soon as the amount of compensation which may be due to the owners of the property to be taken, or to any of them, shall have been ascertained by the jury, the court shall make such order as to its payment, or its deposit, as shall be deemed right and proper in respect to the time and place of payment or deposit, or to the persons entitled to receive payment, and the proportion payable to each, and may require adverse claimants of any part of the money or property, to interplead, so as fully to settle and determine their rights and interests, according to equity and justice; the court may direct the time and manner in which possession of the property condemned, shall be taken or delivered, and may, if necessary, enforce any order giving possession; the costs occasioned by the enquiry and assessment shall be paid by the corporation, and as to the other costs which may arise, they shall be charged or taxed as the court in its discretion may direct; no delay in making an assessment of compensation, or in taking possession, shall be occasioned by any doubt which may arise as to the ownership of the property, or any part thereof, or as to the interests of the respective owners, but in such cases, the court shall require a deposit of the money allowed as compensation for the whole property, or the part in dispute; and in all cases, as soon as the corporation shall have paid the compensation assessed, or secured its payment by a deposit of money under the order of the court, possession of the property may be taken, and the public work or improvement progress.

Proceedings to obtain a review.

SEC. 29. Any party interested in any such inquiry and assessment, who shall feel aggrieved by the finding of the jury, or the order of the court, may have the part thereof in which such party may be interested and feel aggrieved, reviewed in the district court, by filing a petition for that purpose in the court of common pleas, during the term at which the finding or decision complained of shall have been made; and it shall be the duty of the court of common pleas to report, in the nature of a bill of exceptions, the facts necessary to show the ground of a finding or decision, and said petition and report, or a transcript thereof, being filed in the district court, (which

shall be done on or before the first day of the next term thereof,) the matter shall be heard and determined; and if the court shall find that right and justice has not been done, a new assessment may be ordered by a jury in that court, which shall be made without delay, at the same term if practicable; or such other final order or judgment shall be made as may be deemed proper and equitable. When such petition shall be filed, the court of common pleas may suspend the execution of any order which may have been made, on such terms as may be deemed proper, and may require a bond with security for the payment of any damages or costs which may be thereby occasioned; but in all cases where the municipal corporation shall pay or secure by a deposit of money, the compensation assessed by the jury, and shall give such surety as may be deemed adequate to pay any further compensation, and all damages and costs which may be adjudged in the district court, the right to take and hold the property condemned, shall not be affected by any such review.

How charges against lots of land shall be regulated.

SEC. 30. Each municipal corporation may, either by a general or special by-law or ordinance, prescribe the mode in which the charge on the respective owners of lots or land, and on the lots or land, shall be assessed and determined, for the purposes authorized by this act; such charge when assessed, shall be payable by the owner or owners at the time of the assessment, personally, and shall also be a lien upon the respective lots or parcels of land, in the possession of any owner, from the time of the assessment; such charge may be collected and such lien enforced, by a proceeding at law or in equity, either in the name of the municipal corporation, or of any person to whom the municipal corporation shall have directed payment to be made; in any such proceeding at law, when pleadings are required, it shall be sufficient to declare generally, for work and labor done, and materials furnished on the particular street, alley or highway; and in any proceeding in equity, when the owner of any lot or land shall be non-resident of the county, or unknown, notice shall be given by publication, in the manner prescribed by law for like notices, but a publication for one half the usual time shall be deemed sufficient; proceedings at law or in equity, may be instituted against all the owners, or each, or any number of them, or to enforce the lien against all the lots or land, or each lot or parcel, or any number of them, embraced in any one assessment; but the judgment or decree shall be rendered severally or separately, for the amount properly chargeable; and any proceeding may be severed, in the discretion of the court, for the purpose of trial, review or appeal.

Same subject.

SEC. 31. In any such proceeding, when the justice of the peace, or the court trying and hearing the same, shall be satisfied that work has been done, or materials furnished, which according

to the true intent of this act would be properly chargeable on the lot or land through or by which the street, alley, or highway, improved, repaired, or lighted, may pass, a recovery shall be permitted, or a charge enforced, to the extent of the proper proportion of the value of work or material, which would be chargeable on such lot or land, notwithstanding any informality, irregularity or defect in any assessment, on the part of such municipal corporation, or its officers; but in such case, the justice or court shall adjudge as to costs as may be deemed proper; and in cases where an assessment shall have been regularly made, and payment shall have been neglected or refused, at the time when the same was required, any municipal corporation shall be entitled to demand, and recover, in addition to the amount assessed, and interest thereon, at six per cent. from the time of assessment, five per cent. to defray the expenses of collection, which shall be included in any judgment or decree which may be rendered.

As to raising, filling, or draining lots.

SEC. 32. Municipal corporations shall have power to cause any lot or lots of land within their limits, on which or part of which water shall at any time become stagnant, to be raised, filled up, or drained, and to cause all putrid substances, whether animal or vegetable, to be removed from any lot or lots, and may, for such purposes, from time to time, direct that such lot or lots be raised, filled up, or drained, or that such putrid substances be removed from such lot or lots, by the owner or owners thereof, respectively, in such reasonable time, and in such manner, as may be directed by a resolution of the proper authority of any municipal corporation; and it shall be the duty of such owner or owners, his, her, or their agent or attorney, after service of a copy of the said resolution, or after a publication of the same, in some newspaper of general circulation in such municipal corporation, for four successive weeks, to comply with the directions of such resolution, within the time therein specified; and in case of a failure or refusal to do so, it may be done at the expense of such municipal corporation; and the amount of money so expended, shall be a debt due to said municipal corporation, from the owner or owners of such lot or lots, in proportion to the amount expended on the lot or lots owned by him, her, or them, respectively, to be recovered before a justice of the peace, or other court of competent jurisdiction; and shall, moreover, from the time of the adoption of such resolution, be a lien on such lot or lots, which may be enforced if need be, either after or without a previous proceeding at law, by a suit in equity in the court of common pleas of the proper county, and like proceedings may be had as hereinbefore directed in relation to the improvement of streets, or as in other cases at law, or in equity.

Duty of court of common pleas.

SEC. 33. It shall be the duty of the court of common pleas of the proper county, to take and exercise the jurisdiction

authorized by this act, for the collection of any charge or debt, or the enforcement of any lien, notwithstanding the amount involved shall be less than that to which the jurisdiction of the court may be limited in other cases; and any court of common pleas may make such special rules as to the class of cases authorized to be brought under this act, as will tend to expedite their disposition, and prevent unnecessary costs.

By-laws and ordinances.

SEC. 34. Municipal corporations shall have power to make and publish, from time to time, by-laws or ordinances, not inconsistent with the laws of the State, for carrying into effect, or discharging the powers or duties conferred or required under this act; and it is hereby made the duty of municipal corporations to make and publish such by-laws and ordinances as shall be necessary to secure such corporations and their inhabitants against injuries by fire, thieves, robbers, burglars, and all other persons violating the public peace; for the suppression of riots and gambling, and indecent and disorderly conduct; for the punishment of all lewd and lascivious behavior in the streets, and other public places; and they shall have power to make and publish such by-laws and ordinances as to them shall seem necessary to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort and convenience of such corporations, and the inhabitants thereof.

How enforced.

SEC. 35. By-laws and ordinances of municipal corporations, may be enforced by the imposition of fines, forfeitures and penalties, on any person or persons offending against, or violating such by-laws or ordinances, or any of them, and the fine, penalty, or forfeiture, may be prescribed in each particular by-law or ordinance, or by a general by-law or ordinance made for that purpose; and municipal corporations shall have power to provide, in like manner, for the prosecution, recovery and collection of such fines, penalties or forfeitures.

Fines, penalties and forfeitures.

SEC. 36. Fines, penalties and forfeitures, which shall not exceed the sum of twenty dollars for any one specified offence, or violation of the by-law or ordinance, or double that sum for each repetition of such offence, or violation, or which shall not exceed five dollars for each day, where the thing prohibited or rendered unlawful is in its nature continuous in respect to time, shall be deemed reasonable and proper. But where, in any by-law or ordinance, a greater fine, penalty or forfeiture is imposed than as above specified, it shall and may be lawful, in any suit or prosecution for the recovery thereof, to reduce the same to such amount as shall be deemed reasonable and proper, and to permit a recovery, or render judgment accordingly.

How recovered.

SEC. 37. Fines, penalties and forfeitures may, in all cases, and in addition to any other mode provided, be recovered by suit, or action, before any justice of the peace, or other court

of competent jurisdiction, in the name of the proper municipal corporation, and for its use; and in any such suit or action where pleading is necessary, it shall be sufficient to declare generally, for the amount claimed to be due in respect of the violation of the by-law or ordinance, referring to its title, and the date of its adoption, or passage, and showing, as near as may be, the true time of the alleged violation.

Suits to be commenced within one year.

SEC. 38. All suits or prosecutions for the recovery of any such fines, penalties and forfeitures, or for the commission of any offence made punishable by any by-law or ordinance of any municipal corporation, as hereinafter provided, shall be commenced within one year after the violation of the ordinance, or commission of the offence, and not afterwards.

Printed by laws or ordinances to be received in evidence.

SEC. 39. The printed copies of the by-laws or ordinances of any municipal corporation, published under its authority, and transcripts of any by-laws or ordinances, or of any act or proceeding of any municipal corporation, recorded in any book, or entered on any minutes or journal, kept under the direction of such municipal corporation, and certified by its clerk, shall be received in evidence for any purpose for which the original ordinances, books, minutes, or journal, would be received, and with as much effect. It shall be the duty of the clerk to furnish such transcripts, and he shall be entitled to charge therefor, at the same rate that the clerk of the common pleas is entitled to charge for transcripts from the records of that court.

Duty of clerk:

OF THE CLASSES OF MUNICIPAL CORPORATIONS.

Classification.

SEC. 40. In respect to the exercise of certain corporate powers, and to the number, character, powers and duties of certain officers, municipal corporations are, and shall be divided into the classes following: Cities of the first, and cities of the second class; incorporated villages, and incorporated villages for special purposes.

Same subject.

SEC. 41. All cities, which, at the last federal census had or now have, a population exceeding twenty thousand inhabitants, shall be deemed cities of the first class, and all other cities shall be deemed cities of the second class; all cities, which, at any future federal census, or at any census which may be taken in pursuance of the first section of the eleventh article of the constitution of this state, shall have a population exceeding twenty thousand inhabitants, shall also be deemed cities of the first class; and any incorporated village, which, at any future federal census, or at any census taken under the authority of the state, as aforesaid, shall have a population exceeding five thousand and less than twenty thousand inhabitants, shall be deemed a city of the second class.

How the grade of cities or villages shall be changed.

SEC. 42. It shall be the duty of the Governor, Auditor, and the Secretary of State, or any two of them, at the time of ascertaining the ratio of representation, as required by the eleventh section of the said article of the constitution, also to ascertain what cities of the second class are entitled to become cities of the first class; and what incorporated villages are entitled to become cities, and their proper class. And the Governor shall cause a statement thereof, to be prepared by the Secretary of State, which statement he shall cause to be published in some newspaper printed in the city of Columbus, and also in some newspaper printed in each of the cities and incorporated villages, the grade of which shall have been so advanced; and a copy of said statement shall also be transmitted by the Secretary of State, to the next session of the General Assembly; and any such city or incorporated village, shall, at the next regular annual period for the election of municipal officers, proceed to organize, according to its new grade, by the election of officers properly belonging thereto; and on their election and qualification, the term of service of any former officer shall expire.

By-laws and ordinances to be changed.

SEC. 43. So soon as the statement shall have been published as above provided, showing that any city or incorporated village will be entitled at the next regular annual period for the election of municipal officers, to be organized into a city of the first or second class, as the case may be, it shall and may be lawful for the proper corporate authority of such city or incorporated village, to make and publish such by-laws or ordinances as shall be necessary to perfect such organization, in respect to the election, duties and compensation of officers or otherwise.

OF SPECIAL ROAD DISTRICTS.

Trustees of road districts—their organization, &c.

SEC. 44. The corporate authority of incorporated villages, organized, or to be organized under this act, for the special purposes of being a road district, shall be vested in three trustees, who shall be qualified electors, residing within the limits of such special road district, and shall hold their offices for one year, and until their successors shall be elected and qualified; the said trustees shall appoint, either from their own body, or from the qualified voters of the corporation, a clerk, and may appoint a supervisor, and such other officers or agents as may be necessary, and by proper by-laws or ordinances, prescribe the duties and compensation of the officers so appointed, and may remove any such officer, and may appoint others at their discretion; the said trustees shall have power to fill any vacancy which may happen in their own body, from the qualified voters of the corporation, and the person so appointed shall continue in office until the next regular election, and until his successor shall be elected and qualified; any two of said trus-

tees may act, but notice of any meeting for the transaction of business, shall be given to all.

Their powers and duties.

SEC. 45. The said trustees shall have the exclusive supervision and control of all public roads, streets and alleys, sewers and drains, constructed or to be constructed within the limits of such special road district. They shall have the power to lay off and establish, to improve, keep in order and repair, roads, streets, and alleys; and to open and construct, and keep in order and repair, sewers and drains; to enter upon and take for the purpose aforesaid, when necessary, land or material; to assess and collect a charge for the construction, improvement, or repair of any such road, street, or alley; and to carry into effect such powers, and the other powers incident to a corporation for the said special purposes; may make and publish, and enforce by-laws, and ordinances, and shall have the like rights and remedies, in all respects, as in this act provided, in relation to other municipal corporations.

Restrictions.

SEC. 46. No order directing the opening of a new road, street or alley, or the taking of any land for the improvement, straightening or changing any road, street or alley, shall be made by the said trustees, unless they shall all concur therein; and no order shall be made for the improvement or repair of any road, street, or alley, except on the petition of two-thirds of the owners of the lots, or land, through, or by which such road, street or alley, or part thereof to be improved or repaired, shall pass.

OF INCORPORATED VILLAGES.

Village councils—Mayor, recorder and trustees.

SEC. 47. The corporate authority of incorporated villages, organized, or to be organized for general purposes, shall be vested in one Mayor, one Recorder, and five Trustees, who shall be qualified electors, residing within the limits of the corporation, and shall hold their office for one year, and until their successors are elected and qualified; and such mayor, recorder and trustees, shall constitute the council of the incorporated village, any five of whom shall be a quorum for the transaction of business.

Duty of mayor and recorder.

SEC. 48. The mayor, or, in case of his absence, the recorder, shall preside at all meetings of the council; the recorder shall also be and act as the clerk of the corporation, and shall attend all meetings of the council, and make a fair and accurate record of all their proceedings, laws, rules and ordinances, made and passed by the council, and the same shall at all times be open for the inspection of the electors of the corporation.

Powers and duties of the council.

SEC. 49. The council shall have power to fill vacancies which may happen in their board, from the qualified electors of the corporation, who shall hold their appointments until the

next annual election, and until their successors are elected and qualified; and in the absence of the mayor and recorder, from any meeting of the council, the council shall have power to appoint any two of their number to perform the duties of mayor and recorder, for the time being.

Further powers and duties.

SEC. 50. The council of any incorporated village, shall have power to provide, by a by-law or ordinance, for the election of a treasurer, marshal, and such subordinate officers as they may think necessary, for the good government of the corporation; to prescribe their duties and compensation, or the fees they shall be entitled to receive for their services; to require of them an oath of office, and a bond with surety, for the faithful discharge of its duties. The period for the election of any officer, shall be fixed at the time of the regular annual election, and no appointment of any officer shall endure beyond the period of the term of office of the council making the appointment, and one week after the qualification of the members of the succeeding council.

Prerogative of the mayor.

SEC. 51. The mayor of the corporation shall be a conservator of the peace throughout its limits, and shall have, within the same, all the power and jurisdiction of a justice of the peace, in all matters, civil or criminal, arising under the laws of this state, to all intents and purposes whatever; and for crimes and offences committed within the limits of the corporation, his jurisdiction shall be coextensive with the county; he shall give bond and security, as is required by law of justices of the peace, to be approved by the council; and the said mayor shall perform all the duties required of him by the laws and ordinances of the corporation, and appeals may be taken in the same manner, as from decisions of justices of the peace; he shall keep a docket, and shall be allowed and receive the same fees that justices of the peace are, or may be allowed for similar services.

The marshal.

SEC. 52. The marshal shall be the principal ministerial officer of the corporation, and shall have the same power that constables have by law, and his jurisdiction shall be coextensive with the county, for offences committed within the limits of the corporation; he shall execute the process of the mayor, and receive the same fees for his services that constables are allowed in similar cases.

As to removals from office.

SEC. 53. By the concurrent vote of five members of the council, the mayor, recorder, or any member of the council, or any officer of the corporation, may be removed from office; but no such removal shall be made without a charge in writing being made, and an opportunity of hearing being given, unless the officer against whom the charge is made, shall have removed out of the limits of the county; and when any officer shall cease to reside within the limits of the corporation, it shall be deemed a good ground for a removal from office.

Offenders may be arrested and imprisoned.

SEC. 54. It shall be lawful for any council to provide for the immediate arrest, by the proper officers of the corporation, of any person found violating any ordinance made to preserve peace and good order in such corporation; and any person so arrested, shall be taken forthwith before the mayor, or some justice of the peace of the county, for trial; the council may also provide that when any fine is imposed for the violation of any ordinance, the offender may be committed, until the fine and costs of prosecution shall be paid, or until there shall be a discharge in due course of law.

Use of county jails.

SEC. 55. The corporation shall be allowed the use of the jail of the county, for the confinement of such persons as may be liable to imprisonment under the laws and ordinances of the corporation; and all persons so imprisoned shall be under the charge of the jailor, as in other cases.

OF CITIES.

City Council.

SEC. 56. The corporate authority of citizens, organized or to be organized under this act, shall be vested in one principal officer, to be styled the Mayor, in one board of trustees, to be denominated the City Council, together with such other officers as are in this act mentioned, or as may be created under its authority.

The Mayor—his election, duties and prerogative

SEC. 57. The mayor shall be elected biennially, in cities of the first class, and annually in cities of the second class, on the first Monday of April, by the qualified voters of the city; he shall be a qualified elector, and reside within the limits of the city, and shall hold his office during the term for which he shall have been elected, and until his successor shall have been elected and qualified; he shall keep an office at some convenient place in the city, to be provided by the city council, and shall keep the corporate seal of the city in his charge; he shall sign all commissions, licenses and permits, granted by the authority of the city council, and such other acts, as by law or ordinance may require his certificate. In case of the death, disability, resignation, or other vacation of his office, the city council may, by a vote of a majority of all its members, appoint some other person to act until the expiration of the said term. The mayor of the city shall be its chief executive officer and conservator of its peace, and it shall be his special duty to cause the ordinances and regulations of the city to be faithfully and constantly obeyed; he shall supervise the conduct of all the officers of the city, examine the grounds of all reasonable complaints made against any of them, and cause all their violations of duty, or their neglects, to be promptly punished, or reported to the proper tribunal for correction; he shall have

and exercise within the city limits, the powers conferred upon the sheriffs of counties, to suppress disorders and to keep the peace; he shall also perform such other duties compatible with the nature of his office, as the council may from time to time require; he shall receive such salary, payable quarterly out of the city treasury, as may be provided by ordinance, but the amount of said salary shall neither be increased nor diminished during any incumbent's term of office.

As to wards of cities.

SEC. 58. That until otherwise provided by the city council constituted by this act, the numbers, divisions and boundaries of the several wards of cities heretofore incorporated, shall remain as fixed by ordinance on the first day of September, A. D. one thousand eight hundred and fifty-one; Provided, that the city council created by this act, may at any time create additional wards, and the boundaries thereof, and of those now established, alter in such manner as may be deemed expedient.

Trustees of wards, how elected, their duties, &c.

SEC. 59. That the qualified voters of each ward within the several cities shall, on the first Monday of April, A. D. one thousand eight hundred and fifty-three, elect, by a plurality of votes, two trustees, who shall be residents of the wards in which they shall be elected, and who shall at the time be qualified voters therein; and when the city council elected under this act, shall have been organized, as hereinafter provided, they shall proceed and determine by lot the term of service of each trustee, so elected, so that one of the trustees from each ward shall serve for two years, and the other for the term of one year; and at every succeeding annual city election, one trustee shall be elected by the qualified voters of each ward, who shall possess the qualification hereinbefore required, and whose term of service shall be two years, so that the terms of the two trustees of each ward shall always expire in different years; and the persons thus chosen shall hold their offices until their successors shall be elected and qualified. The trustees elected for each city, shall, on the next Monday after their election, assemble together and organize the city council; a majority of the whole number of trustees, shall be necessary to constitute a quorum for the transaction of business; they shall be judges of the election, returns, and qualification of their own members; they shall determine the rules of their proceedings, and keep a journal thereof, which shall be open to the inspection and examination of any citizen, and may compel the attendance of absent members, in such manner and under such penalties, as they shall think fit to prescribe; they shall elect from their own body, a president, who shall preside at their meetings during the term for which they shall have been elected, and in the absence of the president, they may elect a president pro tempore; they shall also appoint, from the qualified voters of the city, a city clerk, who shall have the custody of all the

laws and ordinances of the city, and shall keep a regular and correct journal of the proceedings of the council, and shall perform such other duties as may be required by the ordinances of the city; the clerk in office at the expiration of the term of service of any council, shall continue in office until his successor shall be appointed and qualified.

Seal of city clerks.

SEC. 60. Each city council shall cause to be provided for its clerk's office, a seal, in the centre of which shall be the name of the city, and around the margin the words "City Clerk," which seal shall be affixed to all transcripts, orders, or certificates, which it may be necessary or proper to authenticate under the provisions of this act, or of any ordinance of the city. For all attested certificates and transcripts, other than those ordered by the city council, the same fees shall be paid to the clerk, as are allowed to county officers for similar services.

Legislative powers and duties of city councils.

SEC. 61. The city council shall possess all the legislative powers granted in this act, and other corporate powers of the city, not herein, or by some ordinance of the city council, made in pursuance of this act, conferred on some officer of the city; they shall have the management and control of the finances, and of all the property, real and personal, belonging to the corporation; they shall provide the times and places of holding their meetings, which shall at all times be open to the public; and the mayor, or any three trustees, may call special meetings, by notice to each of the members of the council, served personally, or left at his usual place of abode; they shall appoint, or provide by ordinance that the qualified voters of the city, or of the wards or districts, as the case may require, shall elect, all such city officers as shall be necessary for the good government of said city, and for the due exercise of its corporate powers, and which shall have been provided by ordinance, as to whose appointment or election provision is not herein made; and all city officers whose term of service is not prescribed, and whose powers and duties are not defined in and by this act, shall perform such duties, exercise such powers, and continue in office for such term of time, not exceeding one year, as shall be prescribed by ordinance; but all officers to be elected, shall be elected at the regular annual election for municipal corporations. The officers of all municipal corporations shall receive such compensation and fees for their service, as the trustees shall by ordinance prescribe; Provided, that the compensation of the council or trustees shall not exceed one dollar to each member for every regular or special meeting of the board.

Compensation.

Powers as to a board of health.

SEC. 62. The city council shall have power to establish a board of health, to invest it with such powers, and impose upon it such duties, as shall be necessary to secure the city and the inhabitants thereof from the evils, distresses and calamities,

of contagious, malignant, and infectious diseases; provide for its proper organization, and the election or appointment of the necessary officers thereof, and make such by-laws, rules and regulations for its government and support, as shall be required for enforcing the most prompt and efficient performance of its duties, and the lawful exercise of its powers; they shall have power to establish a city watch or police, to organize the same under the general superintendence of the mayor, marshal, or other officers of the police, prescribe its duties, and define its powers, in such manner as will most effectually preserve the peace of the city, secure the inhabitants thereof from personal violence, and their property from fire and unlawful depredations; they shall establish and organize all such fire companies, and provide them with proper engines, and such other instruments as shall be necessary to extinguish fire, and preserve the property of the inhabitants of the city from conflagration, and provide such by-laws and regulations for the government of the same, as they shall see fit and expedient; and each and every person who may belong to any such fire company, shall, in time of peace, be exempt from the performance of military duty, under the laws of the State; they shall erect, establish and regulate the markets and market places, for the sale of provisions, vegetables, and other articles necessary for the sustenance, comfort and convenience of the city and the inhabitants thereof; no charge or assessment of any kind shall be made or levied on any wagon, or other vehicle, or the horses thereto attached or belonging, bringing produce or provisions to any of the markets in any city, for standing in or occupying a place in any of the market spaces of the city, or in the streets contiguous thereto, on market days and evenings previous thereto, and no charge, assessment or prohibition, shall be imposed or made on or against the owners of such wagons or vehicles, or the persons using the same, in respect of the use of the market spaces and streets, in the manner and for the purposes aforesaid; but the city council shall have full power to prevent forestalling, to prohibit or regulate huckstering in the markets, to prescribe the kind and description of articles which may be sold, and the stands or places to be occupied by the venders; and may authorize the immediate seizure, arrest and removal from the market, of any person violating its regulations as established by ordinance, together with any article or produce in their possession, and the immediate seizure and destruction of tainted or unsound meat, or other provisions.

As to city watch or police.

As to fire companies.

Markets.

Streets, alleys, &c.

SEC. 63. The city council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares, and commons, within the city, and shall cause the same to be kept open and in repair, and free from nuisances; no street or alley which shall hereafter be dedicated to public

use, by the proprietor of ground in any city, shall be deemed a public street or alley, or to be under the care or control of the city council, unless the dedication shall be accepted and confirmed by an ordinance specially passed for such purpose; they shall have the power, in cities of the first class, to prescribe by ordinance the width of the tires of all wagons, carts, drays, and other vehicles, used in the transportation of persons, or articles, from one part of the city to another, or in the transportation of coal, wood, stone, or lumber, into the city; to establish stands for hackney coaches, cabs and omnibuses, and enforce the observance and use thereof, and to fix the rates and prices for the transportation of persons and property in such coaches, cabs, and omnibusses, from one part of the city to another.

Wharves, docks &c.

SEC. 64. The city council shall have power to establish, and construct, and to regulate, landing places, wharves, docks, piers and basins, and to fix the rates of landing, wharfage and dockage, and to use for the purpose aforesaid, any public landing, or any property belonging to, or under the control of the city; and the city council shall have the use and control for the above purpose, of the shore or bank of any lake or river, not the property of individuals, to the extent and in any manner that the State can grant such use or control; the city council shall have the power to appoint, or to provide that the qualified voters shall elect, harbor masters, wharf masters, port wardens, and other officers usual or proper for the regulations of the navigation, trade or commerce of such city, to define their duties and powers, and fix their fees or compensation; copies of examination and surveys, and of the proceedings of any port warden, in the usual discharge of the duties of such officers, certified under his hand and seal, shall be prima facie evidence of the facts therein duly stated.

Ferries.

SEC. 65. The city council of any city shall have the exclusive power to establish, and to regulate and license, ferries from such city, or any landing therein, to the opposite shore, or from one part of said city to another; and in granting such license, to impose such reasonable terms and restrictions in relation to the keeping of such ferries, and the time, manner and rates of the carriage and transportation of persons or property, as the city council may prescribe; and the city council shall have power to provide for the revocation of any such license, and for the punishment, by proper fines and penalties, of the violation of any ordinance prohibiting unlicensed ferries, or regulating those established and licensed.

Collection of fines.

SEC. 66. The city council shall have power to provide that when a fine shall be imposed for the violation of the ordinances of the city, or any of them, and the same is not paid, the party convicted shall, by order of the mayor, or other proper authority, or on process issued for the purpose, be committed until

such fine and the costs of prosecution shall be paid, or the party discharged by due course of law; they shall also have power to provide that any person convicted of a repeated and wilful violation of any ordinance, who shall refuse or neglect to pay the fine imposed and the cost of prosecution, shall, by like order of process, be imprisoned and kept in confinement for any term not exceeding thirty days; they shall have power to provide that all vagrants, common street beggars, common prostitutes, and persons disturbing the peace of the city, shall, on conviction thereof, be punished by imprisonment, not exceeding thirty days; any city shall be allowed for the purpose of imprisonment authorized under this act, the use of the jail of the proper county; and all persons so imprisoned shall be under the charge of the sheriff of the county, who shall receive and discharge such persons, in such manner as shall be prescribed by the ordinances of the city, or otherwise, by due course of law.

Violation of ordinances.

Vagrants, beggars, &c.

Use of county jail.

Removals from office.

SEC. 67. Any member of the city council may be expelled or removed from office, by a concurrent vote of two thirds of all the trustees elected to the city council, but not a second time for the same cause; any officers appointed by the city council may be removed from office by a concurrent vote of a majority of the whole number of trustees elected to the city council; any officer, elected by the voters of the city, or of any ward or district, may be removed from office by a concurrent vote of two-thirds of all the trustees elected to the city council, and provision be made by ordinance, as to the mode in which charges shall be preferred, and a hearing shall be had; in all cases of vacancies in the city council, they shall be filled by a special election; and in case any office of an elective officer, except trustees of the wards, shall become vacant, before the expiration of the regular term thereof, the vacancy shall be filled by the city council, until a successor is elected and qualified; and such successor shall be elected for the unexpired term, at the first annual election that occurs after the vacancy shall have happened.

Vacancies, how filled.

OF CITIES OF THE SECOND CLASS.

Jurisdiction, &c., of mayor.

SEC. 68. The mayor of cities of the second class, shall have, within the limits of the same, all the jurisdiction and powers of a justice of the peace, in all matters civil or criminal, arising under the laws of this State, to all intents and purposes whatever; and for crimes and offences, his jurisdiction shall be co-extensive with the county; he shall give bond and security, as is required of justices of the peace, to be approved by the city council; he shall have exclusive jurisdiction of all prosecutions for violation of the ordinances of the city; he may award and issue any process or writs that may be necessary to enforce the administration of right and justice through-

out the city, and for the lawful exercise of his jurisdiction according to the usages and principles of law; and he shall, in the discharge of the duties of a justice of the peace, receive the fees and compensation allowed by law in such cases.

Marshal, treasurer, solicitor.

SEC. 69. The qualified voters of each city of the second class, shall elect a city marshal, who shall hold his office for one year; a city treasurer, who shall hold his office for one year; and a city solicitor, who shall hold his office for two years; each of said officers shall continue in office until his successor is elected and qualified, and shall have such powers and perform such duties, as are prescribed in this act, or as may be prescribed by any ordinance of the city not inconsistent therewith.

Power and duties of marshal.

SEC. 70. The marshal of cities of the second class, shall execute and return all writs and process to him directed by the mayor; and in criminal cases, or cases of a violation of a city ordinance, he may serve the same in any part of the county; it shall be his duty to suppress all riots, disturbances and breaches of the peace, to apprehend all disorderly persons in the city, and to pursue and arrest any person fleeing from justice in any part of the State; to apprehend any person in the act of committing any offence against the laws of the State, or ordinances of the city, and forthwith to bring such person before the mayor, or other competent authority, for examination or trial; he shall have power to appoint one or more deputies, for whose official acts he shall be responsible; he shall have, in the discharge of his proper duties, like powers, shall be subject to like responsibilities, and shall receive the same fees as sheriffs and constables in similar cases.

OF CITIES OF THE FIRST CLASS.

Power and duties of mayor.

SEC. 71. The mayor of the cities of the first class, shall, at the first regular meeting of the city council in March of every year, and at such other times as he may deem expedient, report to the city council concerning the municipal affairs of the city, and recommend such measures as to him may seem advisable; the mayor shall appoint one chief of police, and as many subordinate officers and watchmen, the watchmen to be selected in equal numbers from each ward, as the city council may direct, who shall hold their appointments during the pleasure of the mayor; he shall have power, in cases of urgency, to appoint as many special watchmen as he may think proper, but such appointment shall be reported to, and be subject to the action of the city council, at its next meeting; he shall have, within the county in which such city is situated, in all criminal cases, all the powers of a justice of the peace; but except in cases of urgency or necessity, the mayor shall not be required to sit on the examination or hearing of any crimi-

nal charge or case; and warrants issued by him shall be made returnable before some judge of the police court.

Marshal, engineer, treasurer, auditor, solicitor, judge, &c.

SEC. 72. The qualified voters shall elect a city marshal, a city civil engineer, a city fire engineer, a city treasurer, a city auditor, a city solicitor, police judge, and a superintendent of markets, who shall hold their offices for two years; each of said officers shall continue in office until his successor is elected and qualified; and shall have such powers and perform such duties as are prescribed in this act, or as may be prescribed by any ordinance of the city, not inconsistent with this act, and which may not be incompatible with the nature of their respective offices.

Power and duties of marshal.

SEC. 73. The city marshal shall execute and return all process to him directed, by the mayor, or judge of the police court, and shall attend on the sittings of said court; he shall have power to execute any such process, by himself or his deputy, in any part of the county; it shall be his duty to suppress all riots, disturbances, and breaches of the peace; to apprehend all persons in the act of commiting any offence against the laws of the state or the ordinances of the city, and them forthwith to bring before the proper authority for examination or trial; he shall have power to pursue and arrest any person fleeing from justice in any part of the state, and to receive and execute any proper authority for the arrest and detention of criminals fleeing or escaping from other places or states; to appoint one or more deputies, for whose official acts he shall be responsible; he shall have, in the discharge of his proper duties, like powers, be subject to like responsibilities, and shall receive the same fees, as sheriffs and constables in similar cases.

Duties of council, mayor, &c.

SEC. 74. The city council shall, by a general ordinance, direct the number of subordinate officers of the police and watchmen to be appointed; they shall also provide, in addition to the regular watch, for the appointment of a reserved watch, to consist of a suitable number of persons in each ward, to be called into duty in whole or in part, in such manner and on such occasions as the council may prescribe; and by the mayor, or the officers of the police, under his direction, in special cases, or in cases of emergency; the duty of the chief and other officers of police, and of the watchmen, shall be under the direction of the mayor, and in conformity with the ordinances of the city; to suppress all riots, disturbances and breaches of the peace; to pursue and arrest any person fleeing from justice, in any part of the state; to apprehend any and all persons in the act of committing any offence against the laws of the state, or the ordinances of the city, and forthwith bring such person or persons before the police court, or other competent authority, for examination; and at all times, diligently and faithfully to enforce all such laws, ordinances and regulations, for the preservation of good order and the public welfare, as the city council may ordain, and for such purpose they shall have all the power of constables; the mayor, marshal, and

watchmen of the city may, upon view, arrest any person or persons who may be guilty of a breach of the ordinances of the city, or of any crime against the laws of the state; and may, upon reasonable information, supported by affidavit, procure process for the arrest of any person or persons who may be charged with a breach of any of the ordinances of the city.

As to water works.

SEC. 75. The city council of any city in which water works are or may be constructed, shall establish a board of three trustees, to be known as the trustees of water works, who shall be elected by the qualified electors of the city, and hold their office for the term of three years; but it shall be so provided that one of said trustees shall be elected annually; the trustees of water works shall manage, conduct and control the city water works, furnish supplies of water, collect water rents, and appoint all necessary officers and agents, under such rules and regulations as the city council may prescribe; when any city shall have contracted a debt in respect of water works, the rents and income which may arise therefrom, shall be kept a separate and distinct fund, to be applied to the payment of the expenses of constructing and repairing the works, the payment of such debts, or the creation of a sinking fund for its redemption.

Election and duty of city commissioners.

SEC. 76. That on the first Monday of April next, there shall be elected three commissioners; the person having the highest number of votes cast, to hold his office for the term of three years, the person having the next highest number, to hold his office for the term of two years, and the person having the next highest number, to hold his office for the term of one year, and thereafter one shall be elected annually, who shall continue in office for the term of three years, and until his successor is elected and qualified; it shall be the duty of the city commissioners to enforce the ordinances of the city, to superintend the cleaning and improvement, and the lighting of the streets, lanes, alleys, market spaces, commons, bridges, sewers, and landings of the city, and perform such other duties as the council may by ordinance prescribe; they shall, with the mayor of said city, and the city civil engineer, constitute the board of city improvements, and receive such compensation for their services as the city council may determine; the board of city improvements shall exercise such powers and perform such duties in the superintendence and construction of public works, constructed by authority of the city council, or owned by the city, as the said council may from time to time prescribe.

As to the poor.

SEC. 77. The city council shall have power to erect and establish, to maintain and regulate an infirmary for the accommodation of the poor of such city, either within the limits of such city, or within the county in which it may be situate; and for such purpose may purchase or hold any real estate

that may be deemed necessary; the management and government of any such infirmary, and the granting of out-door relief to the poor, under such rules and regulations as the council may prescribe, shall be vested in a board of three directors, to be elected by the qualified voters of the city, and hold their office for the term of three years, but it shall be so provided that one of said directors shall be elected annually; the city council may provide that the qualified electors of each ward of the city shall elect, or that the said directors shall appoint an overseer in each ward, who shall perform such duties in respect of the care of the poor and their removal to said infirmary, as the city council may prescribe.

Houses of refuge or correction.

SEC. 78. The city council shall have power to erect and establish, and to maintain and regulate, either within its limits, or within the county in which it may be situate, a house of refuge, or a house of correction, and a work house, or either of them, and place the same under the management and control of such directors, superintendents, and other officers, as the council may by ordinance provide; all children under the age of sixteen years, who shall be convicted of any offence made punishable by imprisonment under any ordinance of the city, or who shall be liable to be committed to prison under any such ordinance, may be confined in such house of refuge, and may be there kept, or apprenticed out, under such rules and regulations as the directors of the house of refuge may prescribe, until they arrive at the age of eighteen years; and it shall and may be lawful for the directors of any such house of refuge, to receive and take charge of any children who may be committed to their custody by the court of common pleas, or any judge, justice of the peace, or other officer, under any law of the state; any person over the age of sixteen years, convicted of a violation of any ordinance, and liable to be punished therefor, by imprisonment, may, in lieu thereof, be committed to the house of correction, or to the work house, as may be provided by ordinance.

Apprenticeship of inmates of house of refuge or correction.

SEC. 79. That the board of directors of any house of refuge heretofore established by any city, be, and they are hereby authorized to appoint a committee of one or more of their own number, with power to execute and deliver, on behalf of said board, indentures of apprenticeship for any inmate of said institution whom they may deem a proper person for an apprenticeship to a trade or occupation, to such person as said committee or the board may select and agree with; and that said indentures shall have the like force and effect as other indentures of apprenticeship under the laws of Ohio, and that said indentures shall be filed and kept in said institution by the superintendent thereof, and it shall not be necessary to file or record the same in any other place or office.

Refractory inmates, how treated.

SEC. 80. That when any boy or girl shall be convicted of any offence against the laws of this state, punishable with imprisonment in the penitentiary, or in the jail of the county where such house of refuge may be situate, and shall, under existing laws, be sent to the house of refuge, instead of the penitentiary or the jail, and said boy or girl shall refuse to submit to the rules of said institution, and prove to be stubborn and irreclaimable, in the opinion of a majority of said board, he or she may, by their order, be delivered into the custody of the sheriff of said county, with a written statement of the cause of his or her commitment, and of the conduct and character of such boy or girl, as exhibited in said institution, which statement shall be prepared and signed by the superintendent of the institution; and it shall be the duty of the sheriff to receive such boy or girl into his custody, and to file said statement in the office of the clerk of the court of common pleas, or in the office of the clerk of the court in which he or she shall have been tried, and to notify the prosecuting attorney of the county thereof; and thereupon, the prosecuting attorney shall cause such boy or girl to be brought before the court of common pleas, or before the court in which he or she may have been tried, to receive the sentence which the court shall deem just, according to the law, for the offence of which he or she shall have been convicted, as aforesaid.

Refractory apprentices.

SEC. 81. That when any inmate of said institution shall have been apprenticed, and shall prove untrustworthy and unreformed, he or she shall be re-committed to the said institution, to be held in the same manner as before said apprenticeship.

City prisons, police judge, &c.

SEC. 82. The city council shall have power to erect, establish and maintain a city prison, which shall be in the keeping of the city marshal, under such rules and regulations as the city council shall prescribe. The city council of such city shall provide one or more watch or station houses; they shall also provide suitable rooms for the holding of the police court; they shall provide by ordinance for the election by the qualified voters of the city, or for the appointment by the police judge, of a clerk for such police court, and for the selection, summoning or empanneling its juries, and for all such matters touching said court, as may tend to its efficiency and dispatch of business. No clerk of said court shall be in any manner concerned as counsel, or agent, in the prosecution or defence of any person before such court. It shall be the duty of the city marshal, by himself or deputy, to attend the sittings of the police court, to execute its orders and process, and preserve order.

Powers and duties of police judge.

SEC. 83. The police judge shall have, in all criminal cases, the powers and jurisdiction that are, or may be by law, vested in the justices of the peace of the county, in all respects whatsoever; he shall also have like power to take the acknowledg-

ment of deeds and other writings; he shall have jurisdiction of all violations of the ordinances of the city, and of all cases of petit larceny, and other inferior offences, which do not require an indictment, or presentment of the grand jury, with power to hear and determine the same, where a jury is not demanded in cases where it may be properly claimed; the police judge of any such city, shall have power to hold a court, to be styled "The Police Court." Every such police court shall be deemed a court of record, shall have a seal, to be provided by the city council, with the name of the state in the centre, and the style of the court around the margin, and shall have like jurisdiction as a court, as is or may be vested in the judge holding the same; and shall also have full jurisdiction and power to hear and determine all cases of violation of the ordinances of the city, which shall be prosecuted in the name, or in behalf of the city; and all cases of petit larceny, and other inferior offences of every description, committed within the limits of the city, or within one mile thereof, and which the constitution or some law of the state, does not require to be prosecuted by indictment or presentment of a grand jury, and prosecutions for such offences, shall be brought and conducted in the name of the state; and for the proper exercise of such jurisdiction, such police court shall have in respect to the issuing of process, the preserving order, and punishing contempts, the administering oaths, the summoning and empanneling of juries, or otherwise, all the powers incident to a court of common pleas, in the hearing and determining of like cases.

Fees of police judge.

SEC. 84. The police judge holding the police court, shall be entitled to receive, in all criminal cases prosecuted in behalf of the state, the same fees, to be collected in like manner, as is or may be provided by law, as to justices of the peace, or judges of the probate court, in like cases; and in cases prosecuted on behalf of the city, such fees, not exceeding fees for services of the like nature in state prosecutions, as the council may by ordinance prescribe; and shall also receive such further salary or compensation as the city council in like manner may prescribe.

As to police court.

SEC. 85. The police court shall always be open for the dispatch of business, but may adjourn from day to day, or from time to time; and the mode in which cases shall be brought before the court, shall be regulated by the ordinance of the city council, or a rule of the court; the jurors in said court, shall have the qualifications of jurors in the court of common pleas; the police judge shall adopt such rules of practice and proceeding as will give to all parties a proper statement of any charge against them, full opportunity of being heard, but shall at the same time dispatch the business of the court with all convenient speed.

Doings of police court may be revised by common pleas.

SEC. 86. Any final conviction or sentence of the police court, may be examined into by the court of common pleas, on certiorari, which may be allowed by such court or a judge thereof, for sufficient cause, and proceedings may be stayed on such terms as may be deemed reasonable; such police judge or court, shall return on such certiorari, all matters of record or on file touching the proceedings, or a transcript thereof, and any facts which may have been noted by the judge, or certified in the nature of a bill of exceptions at the time of trial, which it shall be the duty of the judge on request of the party to do; and on such return, the court of common pleas shall make such order as right and justice may require, and may either discharge the party, or set aside the conviction and order another trial, or dismiss the certiorari and order a precendendo; but no conviction or sentence of any such judge shall be set aside or disregarded for the want of any technical averment, that any matter or thing is within their jurisdiction; and in like manner as is above provided, may a conviction for a violation of an ordinance before the mayor of any corporation, be examined and revised.

Mayor to exercise duties of police judge, until judge elected.

SEC. 87. That until the first Monday in April, one thousand eight hundred and fifty-three, and until a police judge shall be elected and qualified, the mayor of any such city shall have all the powers and jurisdiction which are by this act vested in the police judge, and shall hold the police court in like manner, and with like jurisdiction and powers, as is required of the police judge, and shall be entitled to demand and receive the same fees and compensation as is in this act, or as may be provided by the city council, for the police judge or police court.

Rules and restrictions for the government of councils.

SEC. 88. All by-laws or ordinances, and all resolutions or orders, for the appropriation or payment of money, shall require for their passage or adoption, the concurrence of a majority of all the trustees of any municipal corporation; all by-laws and ordinances of a general or permanent nature, shall be fully and distinctly read on three different days, unless three-fourths of the council of the municipal corporation in which the same may be pending, shall dispense with the rule; no by-law or ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no by-law or ordinance, or section thereof, shall be revived or amended, unless the new by-law or ordinance contain the entire by-law or ordinance, or section, revived or amended; and the by-law or ordinance, section or sections, so amended, shall be repealed. No trustee or member of any council, shall, during the term for which he shall have been elected, or for one year thereafter, be appointed to any municipal office, which shall be created, or the emoluments of which shall have been increased, during the term for which he shall have been elected; no such trustee or

member shall be appointed to any municipal office, except in the cases provided in this act, during the time for which he may have been elected, nor shall any such trustee or member be interested, directly or indirectly, in the profits of any contract or job, for work or services to be performed for the corporation. The emoluments of no officer whose election or appointment is required in this act, shall be increased or diminished during the term for which he may have been elected or appointed; nor shall any change of compensation affect any officer whose office shall be created under the authority of this act, during his existing term, unless the office be abolished; and no person who shall have resigned or vacated any office, shall be eligible to the same during the period of time for which he was elected or appointed to serve, where, during the same time, the emoluments have been increased.

REVENUES AND DEBTS OF MUNICIPAL CORPORATIONS.

Taxes to be reported to county auditor—his duties.

SEC. 89. That the council of any municipal corporation, is hereby authorized and required to cause to be certified to the auditor of the county, on or before the second Monday of June, annually, the per centage by them levied on the real and personal property in said corporation, appraised and returned on the grand levy aforesaid; and the said county auditor is hereby authorized and directed to place the same on the duplicate of taxes for said county, in the same manner as township taxes are now by law placed on said duplicate; which said taxes of such municipal corporation, shall be collected by the county treasurer of the county, and paid into the treasury of such corporation, in the same manner, with the same power and restrictions, and under the same regulations; and in all things as to the sale of real or personal property, he shall be authorized, and he is hereby required, to act according to the provisions and requisitions of the law for the collection of taxes for state and county purposes.

Rules and restrictions as to taxes.

SEC. 90. The amount which may be so certified, assessed and collected for a special road district, to defray the general and incidental expenses thereof, shall not exceed two and a half mills on the dollar, of the amount subject to taxation; for an incorporated village, to defray its general and incidental expenses, three mills on the dollar; for a city of the second class, to defray its general and incidental expenses, three mills on the dollar; for a city of the first class, to defray its general and incidental expenses, five mills on the dollar. To the amount authorized for general and incidental purposes, there may be added, to create special funds, for purposes specially designated, and to be applied or appropriated to none other, as follows: By cities of the second class, for the purpose of pay and support of the city police, an amount not exceeding one mill on

the dollar; for the purpose of contributing to the maintenance of a fire department, an amount not exceeding a mill on the dollar; by cities of the first class, for the purpose of the pay and support of the city police, an amount not exceeding two mills; for the purpose of contribution to the maintenance of a fire department, an amount not exceeding one mill on the dollar; for the purpose of a house of refuge, house of correction, work house and city prison, an amount not exceeding one and a half mills; for the purpose of water-works, an amount not exceeding one-half of a mill on the dollar; for school purposes, an amount not exceeding two mills; for the purpose of a city infirmary, and out-door relief to the poor, an amount not exceeding two mills on the dollar.

Sinking fund.

SEC. 91. That for the purpose of creating a sinking fund for the gradual extinguishment of the bonds and funded debt of any municipal corporation, the council thereof shall annually levy and collect, in addition to the other taxes of said corporation, a tax of not more than one-half of a mill upon said property, appraised and returned as aforesaid, which shall be paid into said treasury, and be applied, by order of the city council, towards the extinguishment of said bonds and funded debt, and to no other purpose whatever.

Payment of interest.

SEC. 92. That for the purpose of paying the interest on the public debt of any municipal corporation, the council thereof shall have power, and it is hereby made their duty, to levy and collect, annually, on the property appraised and returned as aforesaid, a sum not exceeding two mills on the dollar, sufficient to pay and satisfy the whole of such interest, as the same accrues, which sum, when so paid into the treasury, shall be and remain a specific fund for that purpose only, and shall not be appropriated or used in any other way.

Duty of county treasurer.

SEC. 93. That it shall be the duty of the treasurer of the county, to pay over to the treasurer of any municipal corporation, all moneys received by him, arising from taxes levied, belonging to such municipal corporation, on or before the first day of January in each year; and such moneys as said county treasurer may receive after that time, for delinquent taxes, belonging to such corporation, he shall pay over to the treasurer thereof, as he receives them; and any moneys heretofore collected, and now held by the treasurer of any county, for any special fund hereinbefore provided, shall be paid into the treasury of the municipal corporation hereby authorized to levy a tax for such special fund.

Taxes on lands not platted or recorded.

SEC. 94. In any municipal corporation, where the power exists to impose taxes on lots when platted and recorded, the corporation shall also have power to impose taxes upon parcels of land laid off into lots, and sold or leased by metes and bounds or other description, though the same shall not have been platted and recorded.

Dogs, &c., may be taxed.

SEC. 95. That the council of any municipal corporation shall have power, whenever in their opinion the interests of

the corporation require it, to levy and collect a tax on dogs, and other domestic animals not included in the list of taxable property for state and county purposes, which said tax shall be collected by the collector of such corporation, and be paid into the treasury thereof.

Power of granting licenses.

SEC. 96. The council of any incorporated village or city may license all exhibitors of shows and performances of every kind not otherwise prohibited by law; all hawkers and peddlers; all auctioneers of horses and other animals, in the highways or public grounds of the corporation; all venders of gunpowder; all taverns and houses of public entertainment; all hucksters in the public streets or markets; and in granting such license, may exact and receive such sum or sums of money as the council shall think fit and expedient. Any such council may also require the owners of all vehicles, of every description, used for the carriage or transportation of persons or property, for hire in the corporation; all undertakers or owners of hearses, to take out a license; but the owner of any such vehicle may be made liable for the breach of any ordinance regulating the conduct of the drivers thereof.

As to loans.

Sec. 97. Loans may be made by municipal corporations, in anticipation of the revenues of the current fiscal year, and payable within such year; but the aggregate amount of such loans in any one fiscal year, shall not exceed, in case of a special road district, one thousand dollars, of an incorporated village, five thousand dollars, of a city of the second class, fifty thousand dollars, of a city of the first class, one hundred thousand dollars.

Same subject.

SEC. 98. That the council of any municipal corporation, shall not authorize any loan, or appropriation, not predicated on the revenues of the corporation for the current fiscal year, and shall not authorize any order or appropriation of money, when there is not in the city treasury money unappropriated, sufficient to pay such appropriation; and any appropriation otherwise made or authorized, shall be held and deemed utterly void, and of no effect as against said corporation.

OF ELECTIONS AND QUALIFICATIONS OF OFFICERS.

Elections, general and special.

SEC. 99. The first Monday in April shall be the regular annual period for the election of all municipal officers; and all officers whose election is provided for in this act, or may be provided for by any by-law or ordinance, shall be elected on that day. Special elections of members of the city council of any city, shall be held at such time as the mayor may direct, so that ten days notice thereof be given. The trustees or council of every municipal corporation, shall direct the place or places for holding elections for municipal officers. In all cities there shall be a place appointed in each ward for holding all elections. Any

person, who, at the time of any election of municipal officers, would be a qualified voter, under the laws of the State, for county officers, and shall actually reside in the corporation or ward in which he offers to vote, shall be deemed a qualified voter. And all elections shall, in all respects, be held and conducted in the manner prescribed by law, in case of township elections.

As to election returns.

SEC. 100. The returns of all municipal elections in cities and incorporated villages, which are divided into election districts and wards, shall be made to the clerk or recorder of the corporation, and shall be opened by him within the time prescribed as to the clerk of the court of common pleas in county elections. He shall call to his assistance the mayor of the corporation, or if there be no mayor, or the mayor shall have been a candidate at such election, then any justice of the peace of the county, and shall, in his presence, make out an abstract and ascertain the candidates elected, in all respects, as required by law of the clerks of the court of common pleas; and shall, in like manner, make out a certificate as to each candidate so elected, and cause the same to be delivered to him, or to be left at his usual place of abode. At all elections in cities and incorporated villages, which are not divided into election districts, or wards, the mayor and trustees, any three of whom shall be a quorum, shall serve as judges, and the recorder shall serve as clerk; and after canvassing the votes which may be given at such election, shall declare the result, and the recorder shall make out and deliver to each person elected to any office in such city or incorporated village, a certificate of such election.

Oaths and bonds of officers.

SEC. 101. All officers elected or appointed in any municipal corporation, shall take an oath or affirmation to support the constitution of the United States, and the constitution of the State of Ohio, and also, an oath or affirmation of office; and the trustees or council of any municipal corporation, may require from such officers as they may think proper, a bond, with proper penalty and surety, for the faithful discharge of the duties of their office; and such trustees or council shall have power to declare the office of any person appointed or elected to any office, who shall fail to take the oath of office, or give bond when required, for ten days after he shall have been notified of his appointment or election, vacant, and proceed to appoint, as in other cases of vacancy.

FURTHER GENERAL PROVISIONS.

As to by-laws and ordinances.

SEC. 102. All by-laws or ordinances shall, as soon as may be after their passage, be recorded in a book kept for that purpose, and be authenticated by the signatures of the presiding officer of the council, and the clerk; and all by-laws of a gene-

ral or permanent nature, and those imposing any fine, penalty or forfeiture, shall be published in some newspaper of general circulation in the municipal corporation; and it shall be deemed a sufficient defence to any suit or prosecution for such fine, penalty or forfeiture, to show that no such publication was made.

Same subject.

SEC. 103. On the passage or adoption of every by-law or ordinance, and every resolution or order to enter into a contract, by any council of any municipal corporation, the yeas and nays shall be called and recorded; and to pass or adopt any by-law or ordinance, or any such resolution or order, a concurrence of a majority of the whole number of members elected to the council shall be required; all appointments of officers by any council shall be made viva voce, and the concurrence of a like majority shall be required; the names of those voting, and for whom they voted, on the vote resulting in an appointment, shall be recorded. No money shall be appropriated by the council, except by ordinance.

As to streets and highways.

SEC. 104. No street or highway shall be opened, straightened or widened, nor shall any other improvement be made, which will require proceedings to condemn private property, without the concurrence in the by-laws, ordinance or resolution, directing the same, of two-thirds of the whole number of the members elected to the council; and the concurrence of a like majority shall be required to direct any improvement or repair of a street or highway, the cost of which is to be assessed on the owners of property, unless two-thirds of the owners to be charged shall petition in writing therefor.

Improvements of streets, bridges, &c.

SEC. 105. In all cities of the first class, where there shall be a board of city improvements, no improvement or repair in relation to streets, sewers, or bridges, shall be ordered or directed by the city council, except on the report and recommendation of the said board; all petitions from owners of property in relation to such improvements, shall be presented to such board, who shall report from time to time, to the city council, when any such improvement is necessary or proper, and when an assessment is required, and the proper amount to be assessed; and the city council shall take such action thereon as may be deemed proper.

Rights & property continued and held under this law.

SEC. 106. All rights and property, of every kind and description, which were vested in any municipal corporation under its former organization, shall be deemed and held to be vested in the same municipal corporation under the organization made by this act; and no rights or liabilities, either in favor of or against such corporation, existing at the time of taking effect of this act, and no suit or prosecution of any kind, shall be in any manner affected by such change, but the same shall stand or progress as if no such change had been made; Provided, that where a different remedy is given in this act,

which can be properly made applicable to any rights existing at the time of its passage, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

Powers and duties continued and held under this law.

SEC. 107. Any municipal corporation which, under its former organization, held or exercised any power or duty, in ordering or directing the election of justices of the peace, constables, or other township officers, shall continue to hold and exercise such power and duty until otherwise provided by law.

Same.

SEC. 108. Any municipal corporation in which, under its former organization, any law or charter regulating any literary, charitable or benevolent institution, vested any power appointing officers of supervision or control, shall continue to hold and possess the like power and authority in every respect.

Officers, laws, ordinances, &c. continued under this law.

SEC. 109. That the mayor, trustees, marshal, treasurer, and all officers heretofore elected by the people, or appointed by any municipal corporation, now in office, shall remain and continue in their respective offices, and perform the several duties thereof, under the provisions of this act, until the time shall expire for which they shall have been elected or appointed, and until their successors shall be chosen or appointed and qualified, unless the council of such corporation shall otherwise provide; but all such officers shall, notwithstanding any instruction in this act, be subject to such rules and regulations touching their duties or compensation, as the proper authority of any municipal corporation may provide; and all laws, ordinances and resolutions heretofore lawfully passed and adopted by the city council, shall be, remain, and continue in force, until altered or repealed by the city council established by this act; and all special acts in relation to any municipal corporation, repealed by the first section of this act, shall, notwithstanding, so far as the same affects the particular police regulations, or local affairs of any municipal corporation, in matters not inconsistent with this act, be and remain in force as by-laws and ordinances of the particular municipal corporation, until altered or repealed by the proper authority thereof.

Section of former law repealed.

SEC. 110. That section seventy-one of the act entitled an act for the assessment and taxation of all property in this State, and for levying taxes thereon, according to its true value in money, passed April 13, 1852, be and the same is hereby repealed.

SEC. 111. This act shall take effect from and after the fifteenth day of May next.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
JOEL W. WILSON,
President of the Senate, pro tem.

May 3, 1852.

AN ACT

To define the liability of townships, where the same have been altered or diminished.

Contracts, &c., not to be annulled by change of township lines.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever any township in this state shall have been or may hereafter be altered, diminished, or in any way changed, by the formation of new townships, or additions to other townships, or otherwise, such original township, and all parts and portions of the same, shall remain liable, to the same extent, on all contracts, engagements or liabilities, contracted by such township, prior to such change, as if no such alteration, diminution or change, had taken place.

As to assessment and collection of taxes, when township lines are changed.

SEC. 2. That the trustees of any township, in case of a division or change, as provided in the first section, which shall have retained the original name of such township, shall, in levying a tax for the payment of any legal or just claims, against such township, contracted prior to any change as aforesaid, procure a certified abstract from the auditor of the proper county, or in case parcels of such township shall have been attached to townships of different counties, then from the auditors of the counties to which any portion of such township shall have been attached, of all the taxable property situate in such attached portion or portions, together with the names of the persons owning the same; and in making the assessment and levy for the payment of any such indebtedness, or interest thereon, at the time now, or that may hereafter be provided by law for making such levy, levy an amount not exceeding the amount now limited, or that may hereafter be limited by law, for the payment of claims against townships, on all the taxable property in the limits of such township as it was bounded before such change, and certify an abstract thereof to the county auditor of the proper county, or in case parcels of such township shall have been attached to territory in different counties, then said trustees shall certify an abstract of the tax levied upon the property in such parcels respectively, to the auditors of the respective counties, together with the names of the persons so assessed, and the amount assessed to each; and such auditor or auditors shall thereupon enter the same upon the duplicate, designating the persons so taxed, and for what purpose such levy has been made, and the taxes shall be collected thereon, as in other cases.

Duty of treasurers.

SEC. 3. The treasurer of the county or counties collecting any tax as aforesaid assessed, shall, on demand, pay over to the treasurer of such township, on the order of the trustees

thereof, after the first day of March of any year when the same may have been collected, as moneys that may have been collected for such township, and shall be entitled to the same fees, and subject to the same liabilities, for duties performed under this act, as in other cases.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

May 1, 1852.

AN ACT

To provide for collecting the Statistics of Crime.

Prosecuting Attorney shall report annually to Attorney General.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That each Prosecuting Attorney shall, between the tenth and twentieth days of December, in every year, report to the Attorney General a particular statistical account of all crimes prosecuted by indictment in his county, during the year next preceding; which account shall specify the number of persons prosecuted, the crime or crimes for which each person was prosecuted, the result of each prosecution, and the punishment (if any) awarded thereupon, and also the amount of costs in each case, and what portion thereof has been, and what portion probably will be collected; and that each prosecuting attorney shall report, likewise, which of the crimes so prosecuted, were, in his opinion, committed under the influence of ardent spirits.

Clerks of Courts ditto.

SEC. 2. That the clerk of each court having cognizance of pleas of the state prosecuted by indictment, shall, between the first and fifth days of December, in every year, make out and deliver to the Prosecuting Attorney of the county, an accurate statement of the costs taxed or taxable in each case, prosecuted as aforesaid, and determined during the year next preceding; which statement shall specify the portion of costs collected, by execution or otherwise, from the defendant or defendants, and in what cases execution has been issued.

Fees of clerk & prosecuting attorney.

SEC. 3. That each court having cognizance as aforesaid, shall make such allowances, payable out of the county treasury, to the clerk and prosecuting attorney, for performances of the services hereby required, as to the judge or judges thereof, may seem reasonable.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

May 1, 1852.

AN ACT

To regulate the liens of judgments.

When lien shall take effect.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That judgments by confession, and judgments on all suits rendered at the same term of the Court at which said suit is commenced, shall only have a lien on land from the day on which said judgment shall be rendered; Provided, that no such judgment shall have priority as to such lien, over any other such judgment rendered at the same term.

Act repealed.

SEC. 2. That the act entitled an act "in relation to judgments by confession," passed February 11th, 1846, be, and the same is hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

May 1, 1852.

AN ACT

Defining the powers of Plank and Turnpike Road Companies.

Plank or Turnpike companies may issue bonds —rules and restrictions.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall and may be lawful for any Plank road or Turnpike Company heretofore chartered under the laws of this state, for the purpose of constructing any road authorized by their respective charters, and to provide for any present indebtedness which may exist against said companies respectively, to issue the bonds of such company, to the amount, including such indebtedness, of one half of the capital stock of said company actually paid in, and expended in the construction of such road; said bonds to be issued in such sums, and in such forms, as the board of directors of said several companies may each prescribe, and to bear interest and become payable at such time or times, and place or places, as they may severally designate; and for the redemption of which, the faith of said several companies are hereby respectively pledged, together with the property, rights and franchises thereunto belonging, and which said bonds shall not be subject to a higher rate of interest than that provided by law; Provided, that nothing herein contained shall be so construed as to authorize bonds to be issued of a less denomination than one hundred dollars, or in the similitude of bank notes designed to circulate as money.

Individual liability of stockholders.

SEC. 2. That the stockholders of any company which shall issue bonds under the authority of this act, for the purpose of raising money with which to construct the road of such company, or any part thereof, shall be each individually liable for the payment of such bonds, over and above the stock by such stockholder owned, to a sum at least equal in amount to the stock owned by each, at the time the indebtedness on account of said bonds shall be created.

Subjection to general laws.

SEC. 3. That any company that shall avail itself of the provisions of this act, shall be governed by and be subject to the provisions of any general law that may hereafter be passed, for the incorporation of Turnpike and Plank Road companies.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
JOEL W. WILSON,
President of the Senate, pro tem.

May 3, 1852.

AN ACT

To provide for filling vacancies in the Board of County Commissioners, and prescribing their powers and duties in certain cases.

County commissioners may compound debts &c.—when.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the county commissioners of the respective counties shall have power to compound for, or release, in whole or in part, any debt, judgment, fine, or amercement due to their county and for the use thereof, except in cases where they, or either of them, are personally interested; and whenever said commissioners shall compound for, or release, in whole or in part, any debt, judgment, fine, or amercement, as aforesaid, they shall enter upon their journal a statement of the facts in the case, and the reasons that governed them in making such release or composition.

Restrictions.

SEC. 2. That the provisions of this act shall not extend to cases mentioned in an act entitled an act restraining the power of county commissioners to remit fines, penalties and judgments in certain cases, passed February eighth, one thousand eight hundred and forty-seven.

Vacancies, how filled.

SEC. 3. That whenever there shall be a vacancy in the office of county commissioner, from death, resignation, removal, or any cause other than the expiration of the term for which he was elected, and the interest of the county shall require such vacancy to be filled before the next annual election, the Probate Judge, Auditor, and county Recorder, of such county, or a majority of them, shall meet at the seat of justice of the county, and appoint one or more commissioners, as the case may require, who shall continue in office until the next annual election, and until the commissioner or commissioners then elected, shall be qualified, and no longer; and the absence of any commissioner, from the county, for six months in succession, shall be deemed a resignation of the office.

Sections of former acts repealed.

SEC. 4. That the fourth and twelfth sections of the act entitled an act establishing boards of county commissioners, passed March fifth, one thousand eight hundred and thirty-one, and the fourth section of the act passed February eighteenth, one thousand eight hundred and forty-eight, entitled an act to extend the provisions of the act passed February twenty-eighth, one thousand eight hundred and forty-three, entitled an act to authorize the Court of Common Pleas to re-

mit judgments or recognizances in certain cases, and for other purposes, be and the same are hereby repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.

WILLIAM MEDILL,
President of the Senate.

April 30, 1852.

AN ACT

To authorize Guardians to release the interest of their Wards in tax titles to real estate.

Guardians may release interest of minor heirs.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That where any lands, town lots, or other real estate, have heretofore been, or hereafter may be sold for taxes, and the title thereto has become vested in any minor, it shall and may be lawful for the guardian of such minor to convey, in the name, and on behalf of the minor, by deed of release and quit claim, all the right, title and interest of said minor, in law or equity, in and to such lands, town lots, or other real estate, to any person or persons entitled to redeem or recover the same; Provided, that such person or persons so entitled to redeem or recover said lands, town lots or other real estate, shall pay to the guardian aforesaid, an amount of money not less than that for which the same was sold, and the taxes subsequently paid thereon by the purchaser, or those claiming under him, together with interest and fifty per centum on the whole amount so paid by such purchaser, or those claiming under him.

Proviso.

Rule as to costs.

SEC. 2. If any guardian shall tender a deed of release and quit claim of the right and title of his ward or wards in and to any lands, town lots, or other real estate sold for taxes, to any person or persons entitled to redeem or recover the same, as aforesaid, and such person or persons shall refuse to accept such deed on the terms and conditions specified in the preceding section, he or they shall not recover costs accruing after

such tender, in any proceeding that such person or persons may institute for the redemption or recovery of such lands, town lots, or other real estate.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

April 30, 1852.

AN ACT

To authorize County Auditors to place taxable Lands upon the Tax Duplicate, in numerical order.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the county auditor of any county in this state, may, in making out the duplicate of taxes of any such county, for this and each succeeding year, place each separate tract of real property, in each and every township in such county, according to the numerical order of the section in which said tract or tracts may be situate, and the same shall be placed on said duplicate, in a line or lines, immediately opposite to, and after the name or names of the owner or owners of such tract.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
J. W. WILSON,
President of the Senate, pro tem.

May 3, 1852.

AN ACT

Further prescribing the duties of the Auditor of State.

Titles to canal lands.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the Auditor of State is hereby required to take immediate steps to secure to the State of Ohio, the title to all lands heretofore granted, or that may hereafter be granted to this state, by various acts of Congress, for the completion of the Ohio, Miami, and Wabash and Erie Canals, or for other purposes.

To be vested in the State of Ohio.

SEC. 2. That the said Auditor of State is further required, if it become necessary, to use such means as he may deem advisable, to obtain further legislation by Congress, to vest in the State of Ohio all or any of said lands, together with such other lands as this State may have sold, and to which said state has not hitherto secured a valid title; Provided, that no money or other compensation shall be paid, either directly or indirectly, by said Auditor, to any person, for securing such title, or procuring such further legislation.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

May 1, 1852.

AN ACT

To prescribe the duties of the Attorney General.

Oath and bond of Attorney General.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That each Attorney General elect, before entering upon the performance of his duties, shall take an oath or affirmation, before the supreme court, or some judge thereof, to support the constitution of the United States, and the constitu-

tion of the State of Ohio, and faithfully to discharge the duties of his office; and shall also give bond to the state of Ohio, in the sum of five thousand dollars, with two or more sureties, to be approved by the Governor for the time being, conditioned that he will faithfully discharge his duties as aforesaid, and truly pay into the treasury of state, all public moneys which may come into his hands.

Oath and bond to be filed with Secretary of State.

SEC. 2. That a certificate or the oath or affirmation so taken, shall be filed, together with the bond, in the office of the Secretary of State, and a record of the same shall be made and kept in the said secretary's office.

Attorney General shall appear for the State in Supreme Court.

SEC. 3. That the Attorney General shall appear for the state, in the trial and argument of all causes in the supreme court, (whether of a civil, equitable, or criminal description,) wherein the state may be directly interested.

Also in other courts.

SEC. 4. That he shall, also, when required by the Governor, or General Assembly, appear for the state in any court or tribunal, in any cause to which the state may be a party, or in which the state may be directly interested.

Shall prosecute indictments.

SEC. 5. That he shall, upon the written request of the Governor, prosecute any person who may be charged with any indictable offence whatever.

Also delinquent officers.

SEC. 6. That he shall cause to be prosecuted, the official bonds of all delinquent officers, in which the state may be interested, when the same are directed to be put in suit.

Same.

SEC. 7. That he shall cause to be prosecuted, all assessors and other officers connected with the revenue laws of this state, for all such delinquences and offences against those laws as may come to his knowledge.

In Franklin county, or the county where the offence was committed.

SEC. 8. That he may prosecute any action or suit at law, or in equity, authorized by the last two sections, in the court of common pleas of Franklin county, or in the court of common pleas of the county in which the defendant, or any one or more of the defendants, may reside or be found.

On complaint against incorporated companies, by quo warranto, &c.

SEC. 9. That upon complaint made to him, that any incorporated company has offended against the laws of the state, misused its corporate authority, or any of its franchises or privileges, assumed franchises or privileges not granted to it, or surrendered, abandoned or forfeited its corporate authority, or any of its franchises or privileges, he shall enquire into the complaint, and, if he should find probable cause for so doing, cause proceedings, in the nature of quo warranto or writ of scire facias, to be instituted against it.

From personal knowledge, the same.

SEC. 10. That if it shall come to his knowledge otherwise, that any incorporated company has offended against the laws of the state, misused its corporate authority, or any of its franchises or privileges, assumed franchises or privileges not conferred, or surrendered, abandoned or forfeited its corporate authority, or any of its franchises or privileges, he shall cause

proceedings in the nature of quo warranto or writ of scire facias, to be instituted against it.

Also, when directed by Governor, Supreme Court, &c.

SEC. 11. That he shall likewise cause such proceedings to be instituted, and diligently prosecute the same, whenever directed so to do by the Governor, the Supreme Court, or either house of the General Assembly.

Prosecution of usurpers, &c.

SEC. 12. That whenever any person shall usurp, intrude into, or unlawfully hold or exercise any public office, civil or military, or any franchise or privilege, within this state, or any office in any corporation created by the authority of this state, or whenever any such public or corporate officer shall have done or suffered any act, which, by law, may work a forfeiture of his term of office, or whenever any person or number of persons shall act or assume to act as a corporation, within this state, without being legally authorized so to do, or shall exercise or assume to exercise any franchise or authority not warranted by law, within this state, the Attorney General may, upon complaint made to him, or upon his own motion, cause proceedings, in the nature of quo warranto, to be instituted, and the same diligently prosecuted to judgment; Provided, however, that he may refuse to institute proceedings, as aforesaid, except when directed by the Governor, the Supreme Court, or either house of the General Assembly, unless some responsible freeholder of the state will become relator in the cause, and liable for the cost thereof; but whenever the Governor, the Supreme Court, or either house of the General Assembly, may direct any such proceedings to be instituted, he shall cause the same to be commenced, and diligently prosecuted, upon his own relation.

In what courts.

SEC. 13. That he may prosecute any information, writ, relation, or other proceeding authorized by the last four sections, in the supreme court of the state, the district court of Franklin county, or the district court of any county wherein such company may have a place of business, or such officer or officers, person or persons, reside or may be found.

Prosecution, to enforce charitable or educational trusts, &c.

SEC. 14. That it shall be his duty to cause proper suits to be instituted, at law and in chancery, to enforce the performance of trusts for charitable and educational purposes, and restrain the abuse thereof, whenever, upon the complaint of others, or from his own knowledge, he may deem that to be advisable, or whenever by the Governor, the Supreme Court, or either house of the General Assembly, he may be directed so to do; which said suits may be brought in his own name, upon behalf of the state, or the beneficiaries of the trust, in the court of common pleas of Franklin county, or in the court of common pleas of any county wherein the trust property may be situated or invested, and which suit shall not abate nor discontinue by any change of the officer, but shall be prosecuted to final judgment, mandate, or decree, as if no such change

had occurred; Provided, however, that the Attorney Genera may refuse to institute proceedings as aforesaid, except when directed by the Governor, the Supreme Court, or either house of the General Assembly, unless some responsible freeholder of the state will become relator in the cause, and liable for the costs thereof; but whenever the Governor, the Supreme Court, or either House of the General Assembly, may direct any such suit, he shall cause the same to be commenced, and diligently prosecuted, without any other relation.

Legal advice to Executive officers, &c.

SEC. 15. That he shall, when required, give legal advice to the Governor, the Secretary of State, the Auditor of State, the Treasurer of State, the Board of Public Works, the Commissioners of the Sinking Fund, the Warden and Directors of the Penitentiary, and the Superintendent and Directors of the Benevolent Institutions of the state, in all matters relating to their official business.

Also, General Assembly.

SEC. 16. That he shall also give his written opinion upon any question of law, to either house of the General Assembly, when required.

Also, Prosecuting Attorneys.

SEC. 17. That he shall advise the Prosecuting Attorneys of the several counties, when requested by them, in all matters appertaining to the duties of their offices.

Shall prepare forms of contracts, &c.

SEC. 18. That he shall prepare suitable forms of contracts, obligations, and other like instruments of writing, for the use of the state officers, when requested by the Governor, Secretary, Auditor or Treasurer of State.

In what counties suits at law shall be prosecuted.

SEC. 19. That he may prosecute any suit, information, or other suit, either at law or in equity, in behalf of the state, or in which the state may be interested, (other than prosecution by indictment,) in the courts of appropriate jurisdiction in Franklin county, or in the courts of appropriate jurisdiction in any other county in which the defendent, or any one or more of the defendants, may reside or be found; Provided, however, that no merely civil suit at law, or in equity, other than is authorized by the eighth section, shall be commenced in Franklin county, unless the defendant, or one or more of the defendants, shall therein reside or be found, except the Attorney General shall certify on the writ, that he believes the amount in controversy to exceed five hundred dollars.

Writs by mail, and fees.

SEC. 20. That in all cases brought under the provisions of this act, the writ or writs may be sent to the sheriff of any county by mail, and returned by him in like manner, for which the sheriff shall be allowed the same mileage and fees as if the writ or writs had issued out of the court of common pleas or district court in his own county, and been returnable thereto.

Suits against non resident defendants, to be advertised, &c.

SEC. 21. That upon all information or other proceedings specified in the ninth, tenth, and eleventh sections, if the writ or writs, mesne process be returned, not found by the sheriff of the county in which the company is authorized by law to have

its place of business, the clerk of the court in which such information or other proceedings may have been filed, shall make out a notice of the filing and substance thereof, and cause the same to be published for six consecutive weeks, in some newspaper printed in the county in which such company is authorized as aforesaid, to have its place of business; or if no newspaper be therein printed, in some newspaper printed in the city of Columbus; and an affidavit of such publication, together with a copy of the said notice, shall be filed in the office of the clerk aforesaid; and if the company so made defendant, should fail to answer or plead to any such information or other proceeding, within thirty days from the filing of the affidavit and copy aforesaid, judgment shall be given upon the default, in like manner as if the writ or writs had been duly served and returned.

No security required on appeals, &c.

SEC. 22. That upon all appeals, writs of error, certiorari, supersedeas, procedendo, replevin, ne exeat, injunction, attachment, mandamus, or prohibition, taken or sued out by the Attorney General upon behalf of the state, or upon behalf of any other officer thereof, no security shall be required.

When and where depositions may be taken.

SEC. 23. That nothing in this act shall be construed to prevent either party to any cause brought under its provisions, from taking the depositions of such witnesses as reside out of the county in which the cause may be pending, or intend to leave the county before the time of trial, or are unable to attend the trial in person.

Attorney General's office in Columbus.

SEC. 24. That the attorney general shall keep an office in the city of Columbus, to be provided and furnished at the state's expense, and the account for postage upon his official correspondence, shall be audited and allowed by the auditor of state, and paid out of any funds in the state treasury, not otherwise appropriated.

Shall keep registers, &c.

SEC. 25. That he shall keep, in suitable books, to be provided for that purpose, at the state's expense, a register of all actions, demands, complaints, writs, informations, and other suits prosecuted or defended by him officially, together with all the proceedings had in respect thereof, and also a register of all written official opinions given by him, which said books he shall deliver to his successor at the expiration of his term.

Abtract of statistics of crime:

SEC. 26. That he shall, in the report required of him, by article third, section twentieth, of the constitution, submit an abstract of the statistics of crime returned to him by the prosecuting attorneys of the several counties, with a general statement of the business under his immediate charge.

Acts repealed.

SEC. 27. That the act to create the office of attorney general and to prescribe his duties, passed the sixteenth day of February, in the year eighteen hundred and forty-six, and the acts amendatory thereof, passed the twenty-fourth day of February, in the year eighteen hundred and forty-eight, and the

nineteenth day of March, in the year eighteen hundred and forty-nine, be, and the same are repealed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.

WILLIAM MEDILL,
President of the Senate.

May 1, 1852.

AN ACT

To provide for the adjustment and settlement of the affairs of incorporated associations and companies.

No action to abate, &c., by reason of dissolution of corporation.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That no suit, action, judgment, order or decree, to which any incorporated association or company of this state may be a party, either plaintiff or defendant, shall abate, be discontinued or dismissed, by reason of the expiration of the charter of such association or company, but that all such suits, actions, judgments, orders or decrees, shall proceed to final judgment, execution, satisfaction or settlement, in the corporate name of such association or company.

Boards of directors may appoint trustees, &c.

SEC. 2. That the board of directors for the time being, or other officers having the control and management of any incorporated association or company in this state, are hereby authorized to appoint three trustees to adjust and settle the affairs of such association or company; and the trustees so appointed, shall be authorized to use the corporate name of their association or company, for such period as may be necessary for the adjustment and settlement of its affairs, by suit or otherwise.

Trustees to report annually.

SEC. 3. The trustees appointed under this act, shall report annually to the stockholders of their association or company, a full and succinct statement of its affairs.

Trustees may be removed.

SEC. 4. A majority of the stockholders, in interest, of any such association or company, may remove, and shall have authority to appoint a trustee to fill a vacancy occasioned by death, resignation or removal.

Suits after expiration of charter.

SEC. 5. That suits may be instituted by or against any incorporated association or company, in this state, after the expiration of its charter, for debts due or liabilities incurred before the expiration of such charter, and also for debts due and liabilities incurred by the trustees of such association or company, in the proper discharge of the duties of their appointment.

Service to be made upon trustees.

SEC. 6. That where a suit has been commenced against any incorporated association or company, under the provisions of this act, service shall be made upon the trustees thereof.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

May 1, 1852.

AN ACT

To authorize the Commissioners of two or more counties, to build Bridges jointly, in certain cases.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever it shall become necessary, for the public convenience, to bridge any stream of water which shall be on or near the lines of two or more counties, which said counties shall be traversed by the road or roads on which said bridge is needed, it shall be lawful for the commissioners of such counties interested, to build or authorize the building of such bridge jointly, to be paid for in proportion as said commissioners may agree upon.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

May 1, 1852.

AN ACT

To provide for the creation and regulation of Incorporated Companies in the State of Ohio.

Who may become a body corporate.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That any number of natural persons, not less than five, may become a body corporate, with all the rights, privileges and powers conferred by, and subject to all the restrictions of this act.

TO CREATE AND REGULATE RAILROAD COMPANIES.

Certificate of corporation.

SEC. 2. That any number of persons as aforesaid, associating, to form a company for the purpose of constructing a railroad, shall, under their hands and seals, make a certificate, which shall specify as follows: 1st. The name assumed by such company, and by which it shall be known. 2d. The name of the place of the termini of said road, and the county or counties through which such road shall pass. 3d. The amount of capital stock necessary to construct such road. Such certificate shall be acknowledged before a justice of the peace, and certified by the clerk of the court of common pleas, and shall be forwarded to the Secretary of State, who shall record and carefully preserve the same in his office; and a copy thereof, duly certified by the Secretary of State, under the great seal of the State of Ohio, shall be evidence of the existence of such company.

Corporation—rights and privileges.

SEC. 3. That when the foregoing provisions have been complied with, the persons named as corporators in said certificate, are hereby authorized to carry into effect the objects named in said certificate, in accordance with the provisions of this act; and they and their associates, successors and assigns, by the name and style provided in said certificate, shall thereafter be deemed a body corporate, with succession, with power to sue and be sued, plead and be impleaded, defend and be defended, contract and be contracted with, acquire and convey, at pleasure, all such real and personal estate as may be necessary and convenient to carry into effect the objects of the incorporation, to make and use a common seal, and the same to alter at pleasure, and do all needful acts to carry into effect the object for which it was created; and such company shall possess all the powers, and be subject to all rules and restrictions provided by this act.

May construct road—conditions, &c.

SEC. 4. Said corporations shall be authorized to construct and maintain a railroad, with a single or double track, with

such side-tracks, turn-outs, offices and depots, as they may deem necessary, between the points named in the certificate, commencing at or within and extending to or into any town, city or village, named as the place of the termini of such road, and construct branches from the main line to other towns or places within the limits of any county through which said road may pass.

Capital stock.

SEC. 5. The capital stock of such company shall be divided into shares of fifty dollars each, and consist of such sum as may be named in the certificate; such shares shall be regarded as personal property, and shall be subject to execution at law.

Installments.

SEC. 6. An installment of five dollars on each share of stock shall be payable at the time of making the subscription, and the residue thereof shall be paid in such installments, and at such times and places, and to such person, as may be required by the directors of such company.

Collection of delinquent installments.

SEC. 7. If any installment of stock shall remain unpaid for sixty days after the time it may be required, whether such stock is held by an assignee, transferee, or the original subscriber, the same may be collected by action of debt, or the directors may sell the stock so unpaid at public auction, for the installment then due thereon; first giving thirty days public notice of the time and place of sale, in some newspaper in general circulation in the county where such delinquent stockholder resided at the time of making such subscription, or becoming such assignee or transferee, or of his actual residence at the time of said sale; or, if such stockholder reside out of the state, such publication shall be made in the county where the principal office of the company is located; and if any residue of money shall remain after paying the amount due on said stock, the same shall, on demand, be paid over to the owner; if the whole of said installment be not paid by such sale, the remainder shall be recoverable by an action of debt against the subscriber, assignee or transferee.

Increase of capital stock.

SEC. 8. That whenever any railroad company, heretofore incorporated, or created and incorporated under the provisions of this act, shall, in the opinion of the directors thereof, require an increased amount of capital stock, they shall, if authorized by the holders of a majority of the stock, file with the auditor of state a certificate, setting forth the amount of such desired increase, and thereafter such company shall be entitled to have such increased capital as is fixed by said certificate.

Opening subscription books, choosing directors, &c.

SEC. 9. That the persons named in said certificate of incorporation, or any three of them, shall be authorized to order books to be opened for receiving subscriptions to the capital stock of said company, at such time or times, and at such place or places, as they may deem expedient, after having given at least thirty days notice, in a newspaper published or generally circulated in one or more counties where books of subscrip-

tion are to be opened, of the time and place of opening books; and so soon as ten per centum on the capital stock shall be subscribed, they may give like notice for the stockholders to meet at such time and place as they may designate, for the purpose of choosing seven directors, who shall continue in office until the time fixed for the annual election, and until their successors are chosen and qualified; at the time and place appointed, directors shall be chosen, by ballot, by such of the stockholders as shall attend for that purpose, either in person or by lawful proxies; each share shall entitle the owner to one vote, and a plurality of votes shall be necessary for a choice; but after the first election of directors, no person shall vote on any share [on] which any installment is due and unpaid. The persons named in such certificate, or such of them as may be present, shall be inspectors of such election, and shall certify what persons are elected directors, and appoint the time and place for holding their first meeting; a majority of said directors shall form a board, and be competent to fill vacancies in their board, make by-laws, and transact all business of the corporation; a new election shall be annually held for directors, at such time and place as the stockholders, at their first meeting, shall determine, or as the by-laws of the corporation may require; and the directors chosen at any election, shall, so soon thereafter as may be convenient, choose one of their number to be president, and shall appoint a secretary and treasurer of the corporation. The directors, before entering on their duties, shall each take an oath or affirmation, faithfully to discharge his duties, and they shall, from time to time, make such dividends of the profits of said company, as they may think proper.

Oath of directors.

Appropriation of private property.

SEC. 10. Such corporation is authorized to enter upon any land, for the purpose of examining and surveying its railroad line, and may appropriate so much thereof as may be deemed necessary for its railroad, including necessary side tracks, depots and workshops, and water stations, materials for construction, except timber, a right of way over adjacent lands, sufficient to enable such company to construct and repair its road, and a right to conduct water by aqueducts, and the right of making proper drains; but no appropriation of private property to the use of any corporation provided for in this act, shall be made, until full compensation therefor be first made, in money, or first secured by deposit of money, to the owner or owners, irrespective of any benefit from any improvement proposed by such corporation, as shall be prescribed by law.

Change of grade or location.

SEC. 11. That whenever any railroad company heretofore incorporated, or which may hereafter be incorporated, shall find it necessary, for the purpose of avoiding annoyance to public travel, or dangerous or difficult curves or grades, or unsafe or unsubstantial grounds or foundations, or for other reasonable causes, to change the location or grade of any portions of their road,

whether heretofore made or hereafter to be made, such railroad companies shall be and are hereby authorized to make such changes of grade and location, not departing from the general route prescribed in the certificate of such company; and for the purpose of making any such change in the location and grades of any such road, as aforesaid, such company shall have all the rights, powers and privileges, to enter upon and take and appropriate such lands, and make surveys necessary to effect such changes and grades, upon the same terms, and be subject to the same obligations, rules and regulations, as are prescribed by law, and shall also be liable, in damages, when any have been caused by such change, to the owner or owners of the lands upon which such road was heretofore constructed, to be ascertained and paid or deposited as aforesaid; but no damages shall be allowed, unless claimed within thirty days after actual notice of such intended change, shall be given to such owner or owners, if residing on the premises, or notice by publication in some newspaper in general circulation in the county, if non-resident.

Occupation of streets, public grounds, &c.

SEC. 12. If it shall be necessary, in the location of any part of any railroad, to occupy any road, street, alley, or public way, or ground of any kind, or any part thereof, it shall be competent for the municipal or other corporation or public officer, or public authorities, owning or having charge thereof, and the railroad company, to agree upon the manner and upon the terms and conditions upon which the same may be used or occupied; and if said parties shall be unable to agree thereon, and it shall be necessary, in the judgment of the directors of such railroad company, to use or occupy such road, street, alley, or other public way or ground, such company may appropriate so much of the same as may be necessary for the purposes of such road, in the same manner, and upon the same terms, as is provided for the appropriation of the property of individuals, by the tenth section of this act.

Prices for transportation, &c.

SEC. 13. Such corporation may demand and receive for the transportation of passengers on said road, not exceeding three cents per mile, and for the transportation of property, not exceeding five cents per ton per mile, when the same is transported a distance of thirty miles or more; and in case the same is transported for a less distance than thirty miles, such reasonable rate as may be from time to time fixed by said company or prescribed by law.

Company may borrow money, &c.

SEC. 14. Such company shall have power to borrow money on the credit of the corporation, not exceeding its authorized capital stock, at a rate of interest not exceeding seven per cent. per annum, and may execute bonds or promissory notes therefor, in sums of not less than one hundred dollars; and to secure the payment thereof, may pledge the property and income of such company.

May acquire lands.

SEC. 15. Such company may acquire, by purchase or gift, any lands in the vicinity of said road, or through which the same may pass, so far as may be deemed convenient or necessary by said company to secure the right of way, or such as may be granted to aid in the construction of such road, and the same to hold or convey, in such manner as the directors may prescribe, and all deeds and conveyances made by such company, shall be signed by the president, under the seal of the corporation; and any existing railroad corporation may accept the provisions of this act, and after such acceptance, all conflicting provisions of their respective charters shall be null and void.

Old corporations may accept provisions of this act.

May cross roads or streams of water—restrictions.

SEC. 16. It shall be lawful for such corporation, whenever it may be necessary, in the construction of such road, to cross any road or stream of water, to divert the same from its present location or bed; but said corporation shall, without unnecessary delay, place such road or stream in such condition as not to impair its former usefulness.

Principal office.

SEC. 17. Such corporation shall, as soon as convenient after its organization, establish a principal office at some point on the line of its road, and change the same at pleasure, giving public notice in some newspaper of such establishment or change.

Signs at crossings required.

SEC. 18. Every company organized under this act, shall be required to erect, at all points where their road shall cross any public road, at a sufficient elevation from such public road to admit of the free passage of vehicles of every kind, a sign, with large and distinct letters placed thereon, to give notice of the proximity of the railroad, and warn persons of the necessity of looking out for the cars; and any company neglecting or refusing to erect such sign, shall be liable in damages for all injuries occurring to persons or property from each neglect or refusal; and each railroad company shall be required to fence its roads, with a good substantial wooden fence, under such rules as the county commissioners of the several counties through which the same may pass, shall prescribe.

Roads must be fenced.

Shall report annually.

SEC. 19. That each and every railroad company, incorporated under this act, shall, annually, in the month of January, make a full report of the condition of its affairs, to the Auditor of State, showing the amount of the capital stock of such company, the gross amount of tolls or receipts during the previous year, the cost of repairs and incidental expenses, the net amount of profits, and the dividends made; with such other facts as may be necessary to a full statement of the affairs and condition of such road; and the Auditor shall annually present an abstract copy of such report to the General Assembly.

Bridges over canals and navigable waters.

SEC. 20. That whenever the line of any railroad company now existing, or which may hereafter organize under this act, shall cross any canal, or any navigable water, the said compa-

ny shall file with the "Board of Public Works," or with the acting commissioner thereof, having charge of the public works where such crossing is proposed, the plan of the bridge, and other fixtures for crossing such canal or navigable water, designating the place of crossing; and if the said board, or acting commissioner thereof, shall approve of such plan, he shall notify such company, in writing, of such approval; but if the said board, or acting commissioner, shall disapprove such plan, or fail to approve the same within twenty days from the filing thereof, then it shall be lawful for such company to apply to the court of common pleas, or any judge thereof, in vacation, and upon reasonable notice being given to the members of the board of public works, or said acting commissioner, said court or judge shall, upon good cause shown, appoint a competent disinterested engineer, not a resident of any county through which said road passes, to examine such crossing, and prescribe the plan and condition thereof, so as not to impede navigation; and such engineer shall, within twenty days from his appointment, make his return to the court of common pleas of the county where such crossing is to be made, subject to exception by either party; and thereupon the court shall, at the next term after the filing of said return, proceed to examine the same, and unless good cause is shown, shall approve and confirm the same; and such order of confirmation shall be sufficient authority for the erection, use and occupancy of such bridge, in accordance with such plan; Provided, that no railroad company shall be authorized to construct any permanent bridge over any canal of this State, which shall be less than ten feet in the clear above the top water line of said canal; and the piers and abutments of such bridge shall be placed so as not in any manner to contract the width of the canal, or interfere with free passage on the towing path.

Consolidation of two or more companies.

SEC. 21. That whenever the lines of railroad of any railroad companies in this State, or any portion of such lines, have been or may be constructed, so as to admit the passage of burden or passenger cars over any two or more of such roads continuously, without break or interruption, such companies are hereby authorized to consolidate themselves into a single corporation, in the manner following:

Agreement of directors.

I. The directors of said two or more corporations may enter into an agreement, under the corporate seal of each, for the consolidation of the said two or more corporations, prescribing the terms and conditions thereof; the mode of carrying the same into effect; the name of the new corporation; the number of the directors thereof, which shall not exceed thirteen; the time and place of holding the first election of directors; the number of shares of capital stock in the new corporation; the amount of each share; the manner of converting the shares of capital stock in each of said two or more corporations into

shares in such new corporation; the manner of compensating stockholders in each of said two or more corporations who refuse to convert their stock into the stock of such new corporation; with such other details as they shall deem necessary to perfect such consolidation of said corporations; and such new corporation shall possess all the powers, rights and franchises, conferred upon such said two or more corporations, and shall be subject [to] all the restrictions, and perform all the duties, imposed by the provisions of this act; Provided, that all stockholders in either of such corporations who shall refuse to convert their stock into the stock of such new corporation, shall be paid at least par value for each of the shares so held by them, if they shall so require, previous to said consolidation being consummated.

Shall be submitted to stockholders.

II. Such agreement of the directors shall not be deemed to be the agreement of the said two or more corporations, until after it has been submitted to the stockholders of each of said corporations, separately, at a meeting thereof, to be called upon a notice of at least thirty days, specifying the time and place of such meeting, and the object thereof, to be addressed to each of such stockholders, when their place of residence is known, and deposited in the post office, and published for at least three successive weeks in one newspaper in at least one of the cities or towns in which each of said corporations has its principal office of business, and has been sanctioned by such stockholders by the vote of at least two-thirds in amount of the stockholders present at such meeting, voting by ballot, in regard to such agreement, either in person or by proxy, each share of capital stock being entitled to one vote; and when such agreement of the directors has been so sanctioned by each of the meetings of the stockholders separately, after being submitted to such meetings in the manner above mentioned, then such agreement of the directors shall be deemed to be the agreement of the said two or more corporations.

Consummation of agreement.

SEC. 22. Upon making the agreement mentioned in the preceding section, in the manner required therein, and filing a duplicate or counterpart thereof in the office of the Secretary of State, the said two or more corporations mentioned or referred to in the said first section, shall be merged in the new corporation provided for in such agreement, to be known by the corporate name therein mentioned; and the details of such agreement shall be carried into effect, as provided therein.

Rights of the several corporations to be vested in the new.

SEC. 23. Upon the election of the first board of directors of the corporation created by the agreement in the twenty-first section of this act mentioned, and by the provisions of this act, all and singular the rights and franchises of each and all of said two or more corporations, parties to such agreement, all and singular their rights and interests, in and to every species of property, real, personal and mixed, and things in action,

shall be deemed to be transferred to and vested in such new corporation, without any other deed or transfer; and such new corporation shall hold and enjoy the same, together with the right of way, and all other rights of property, in the same manner, and to the same extent, as if the said two or more corporations, parties to such agreement, should have continued to retain the title, and transact the business of such corporations; and the titles and the real estate acquired by either of said two or more corporations, shall not be deemed to revert or be impaired by means of any thing in this act contained; Provided, that all rights of creditors, and all liens upon the property of either of said corporations, parties to said agreement, shall be and hereby are preserved unimpaired; and the respective corporations shall continue to exist so far as may be necessary to enforce the same; and provided further, that all the debts, liabilities and duties of either company, shall thenceforth attach to such new corporation, and be enforced from the same, to the same extent, and in the same manner, as if such debts, liabilities and duties, had been originally incurred by it. Proviso.

Companies may aid each other, how and when.

SEC. 24. Any railroad company heretofore or hereafter incorporated, may, at any time, by means of subscription to the capital of any other company, or otherwise, aid such company in the construction of its railroad, for the purpose of forming a connection of said last mentioned road with the road owned by the company furnishing said aid; or any railroad company organized in pursuance of law, may lease or purchase any part or all of any railroad constructed by any other company, if said companies' lines of said road are continuous or connected as aforesaid, upon such terms and conditions as may be agreed on between said companies respectively; or any two or more railroad companies whose lines are so connected, may enter into any arrangement for their common benefit, consistent with and calculated to promote the objects for which they were created; Provided, that no such aid shall be furnished, nor any purchase, lease or arrangement perfected, until a meeting of the stockholders of each of said companies shall have been called by the directors thereof, at such time and place, and in such manner, as they shall designate, and the holders of at least two-thirds of the stock of such company represented at such meeting, in person or by proxy, and voting thereat, shall have assented thereto. Proviso.

Commissioners, councils trustees may sell stock, &c.

SEC. 25. The commissioners of any county, the city or town council of any city, or town, and the trustees of any township, which county, city, town, or township, has heretofore subscribed to the capital stock of any railroad company, or turnpike or plank road company, and has issued, or shall hereafter issue any bonds for the payment of such subscription, are hereby authorized to sell the said stock, or any

part thereof, and on such terms as they shall deem to be for the interest of said county, city, town or township, respectively, and may apply the proceeds of such sale to the payment of the bonds by such county, city, town or township, respectively, subscribed.

All trains of passenger cars shall entirely stop at each station, &c.

SEC. 26. That every railroad company in this State, shall cause all its trains of cars for passengers to entirely stop, upon each arrival at a station advertised by such company as a station for receiving passengers upon such trains, at least one half of one minute; and every company, and every person in the employment of such company, that shall violate, or cause or permit to be violated, the provisions of this section, shall be liable to a forfeiture of not more than one hundred nor less than twenty dollars; to be recovered in an action of debt, upon the complaint of any person, before any justice of the peace of the county in which such violation shall occur; and in all cases in which a forfeiture shall occur under the provisions of this section, the company whose agents shall cause or permit such violation, shall be liable for the amount of such forfeiture, and in all cases, the conductor upon such train shall be held prima facie to have caused the violation of this section, which may occur upon the train in his charge; said forfeiture to be recovered in the name of the State of Ohio, for the use of common schools.

TO CREATE AND REGULATE TURNPIKE AND PLANK ROAD COMPANIES.

Turnpike and Plank Road companies—how created, &c.

SEC. 27. Turnpike and Plank Road companies shall be created in the same manner as is provided in the second section of this act for the incorporation of railroad companies; and when so incorporated, are hereby authorized to construct a turnpike or plank road, as may be named in their certificate of incorporation, and by the name and style provided in said certificate, shall be deemed a body corporate, with succession; and they and their associates, shall have the same general corporate powers, as is provided for railroad companies in the third section of this act, and shall be subject to all the restrictions hereafter provided.

Relative to opening books for subscription.

SEC. 28. That so soon as the persons named in any certificate of incorporation, for any turnpike or plank road company, or a majority of them, shall have associated themselves together and organized, they may then proceed to open subscription books at such places as they may designate, for the purpose of receiving subscription to the stock of such company, in shares of such amount as may be designated; which books shall be opened at such time or times, and under such regulations, as shall be directed by such corporators, or a majority of them,

giving at least thirty days notice in some public newspaper in general circulation, printed on or nearest to the route of such intended turnpike or plank road, of the time and place or places of opening such subscription books; Provided, that not more than five per centum on each share, shall be demanded at the time of subscribing, nor more then ten per centum at any subsequent installment; and at least sixty days notice shall be given, in manner aforesaid, of the time and place or places of paying in any installment subsequent to the installment paid at the time of subscribing; Provided, also, that no installment shall be called for in less than sixty days from the day of payment of any preceding installment. They shall also have power to borrow money, for the completion of their road, not exceeding in amount one half their capital stock, in the same manner, upon the same terms, and under the same regulation and restrictions as are provided in relation to railroad companies, in section fourteen of this act.

Installments.

Power to borrow money.

Sec. 29. That whenever ten per centum of the capital stock of any such turnpike or plank road company, shall be subscribed, it shall be the duty of the corporators named in such certificate, to call a meeting of the stockholders, at such place adjoining the proposed route of such turnpike or plank road, as they may deem expedient, for the purpose of electing seven directors, of the time and place of holding which meeting, at least thirty days notice shall be given by said corporators, by publication, as prescribed in the ninth section of this act, at which election, at least three of the corporators aforesaid shall preside, and all votes shall be by ballot; each stockholder shall be entitled to one vote on each share he may own; stockholders may vote by proxy under such regulations as may be prescribed in the by-laws of such company, and all elections after the first shall be held on the second Monday in January, annually, at such place as the directors shall appoint, of the time and place of holding which annual election, at least thirty days notice shall be given by the president, in the manner prescribed in the ninth section of this act; Provided, however, that it shall and may be lawful to hold an election at any other time, on notice being given as aforesaid.

Meeting of stockholders, election of officers, &c.

Sec. 30. That the directors, when elected, as provided in the preceding section, shall each take an oath, or affirmation, diligently and impartially to discharge the duties of his office; and the directors, or a majority of them, when thus qualified, shall, on the day of their election, or some succeeding day, proceed to elect a president from their number; and the president and directors shall hold their offices for one year, and until their successors are chosen and qualified.

Oath, and organization of directors.

Sec. 31. That the president and directors shall, in all cases, manage the concerns of the company; appoint such officers and agents as may be necessary; fill all vacancies which may

Duties of president and directors.

happen in their body, until the next annual election; make by-laws for the regulation and government of the company; they may require such oath or affirmation, of any of the agents of said company, as they may think necessary; may call special meetings of the stockholders; keep records of all the transactions of said company; and do all other matters and things touching the concerns of said company, contemplated in this act.

Rights of the company—as to appropriating lands, &c.

SEC. 32. That any such turnpike or plank road company, or their agents, shall have a right to lay out, locate, survey, and make the turnpike or plank road, for the making of which such company shall be incorporated, through any improved or unimproved lands, on the best route between the points or places designated in the certificate, contracting for and paying the owner or owners over which the road may pass, the damages done to said ground by laying out and making such road, and materials for constructing or repairing the same; and when the said corporation and the owner or owners, cannot agree as to the amount of compensation, or where the owner is unknown or incapable of contracting, then such damages to be assessed and paid in such manner as shall be prescribed by law.

Turnpike companies may construct roads of plank, &c.

SEC. 33. That any company heretofore incorporated, for the purpose of constructing a turnpike road, may construct said road, in any part thereof, by covering the same with plank, not less than two and a half inches thick, of sufficient width for the accommodation of teams, and in a good and substantial manner, instead of covering the same with stone or gravel.

Width and grade of roads.

SEC. 34. That all turnpike and plank roads, shall be opened not exceeding sixty feet wide, thirty feet of which shall be cleared of brush and logs, and at least sixteen feet shall be made an artificial road, composed of stone, gravel, wood, or other convenient materials, well compact together, in such manner as to secure a firm, even and substantial road; and in no case shall the ascent in any such turnpike or plank road, be greater than five degrees; Provided, that no company or association of individuals, which has been or may hereafter be incorporated for the purpose of making any turnpike or plank road, shall be authorized to erect or keep up any toll-gate, or receive tolls, within the corporate limits of any incorporated city, town or village, in this State, or within eighty rods of such limits.

Restriction as to toll gates.

How right to erect toll gates shall be determined, &c.

SEC. 35. That so soon as any turnpike or plank road company shall have completed any such turnpike or plank road, as aforesaid, or any part thereof, not less than five miles together, in any part of the route, and so from time to time as often as five miles in addition shall be completed, adjoining any five miles previously completed, the commissioners of the county in which such finished road lies, or in case the same lies in two or more counties, the commissioners of either of said counties, shall, on the application of the agent of the com-

pany, appoint three judicious, disinterested freeholders, who shall, on oath, or affirmation, examine the same, and report their opinion to the commissioners, in writing; and if such report shall state the road, or such part thereof, to be completed agreeably to the provisions of this act, the commissioners shall, by license in writing, authorize the company to erect gates, at suitable distances, and demand and receive, of persons traveling such road, the tolls allowed by law; and in case it should happen that said commissioners, or either of them, should be stockholders in the turnpike or plank road company, making application as aforesaid, the duties hereby required of them shall devolve upon the probate judge or judges of the county or counties aforesaid; and if such probate judges, or either of them, should be stockholders, as aforesaid, such duties shall devolve upon the common pleas judge of the district in which such road may lie, or the district judge of any of the districts in which such road may lie, in case the same lies in two or more districts.

Rates of toll allowable.

SEC. 36. Every turnpike or plank road company, entitled to charge toll as aforesaid, shall be authorized to receive from persons traveling on or using said road, the following tolls for every ten miles travel on such road, and in the same proportion for any less distance, to wit: For every four wheeled carriage, drawn by one horse, or other animal, fifteen cents, and for each additional animal five cents; For every sled or sleigh, drawn by one horse or other animal, five cents, and for each additional animal, five cents; For every horse and rider, five cents; For every horse, mule or ass, six months old or upwards, led or driven, three cents; For every head of neat cattle, six months old or upwards, one cent; For every head of sheep or hogs, one half cent; For every stage coach, drawn by four horses, or other animals, fifty cents; For every two wheeled carriage, drawn by one horse, mule or other animal, ten cents; Provided, that any person or persons going to and from public worship, on the Sabbath, funerals, militia musters, elections, jurymen going to and from court, the troops and armies of the United States and of this State, may pass on any such turnpike or plank road, free from toll.

Penalty for evasion of tolls.

SEC. 37. That if any person or persons using any such turnpike or plank road, shall, with intent to defraud any such turnpike or plank road company, or to evade the payment of toll, pass through any private gate, or bars, or along any other ground near any turnpike or plank road gate, which shall be erected in pursuance of this act, or shall practise any fraudulent means, with intent to evade or lessen the payment of such toll, each and every person concerned in any such fraudulent practices, shall, for every such offence, forfeit and pay to the president, directors and company, owning such turnpike or plank road, the sum of five dollars, to be recovered with

costs of suit, before any justice of the peace of the county in which such offence may have been committed, without stay of execution; Provided, nothing in this act shall be so construed as to prevent persons using any such road between the gates, for common purposes.

Milestones required.

SEC. 38. That all turnpike and plank road companies hereafter to be incorporated, as contemplated by this act, shall put up a post or stone at the end of each mile, with the number of miles from some noted point or place, at one end of the turnpike or plank road, fairly cut or painted thereon; and also, in a conspicuous place near each gate, shall be placed a board with the rates of toll painted thereon; and no toll shall be demanded unless such rates are kept up.

Penalty for detaining passengers, exacting unlawful tolls, &c.

SEC. 39. That if any toll gatherer on any turnpike or plank road, shall unreasonably detain any passenger after the toll has been paid or tendered, or shall demand or receive greater toll than shall be allowed by law on such road, he shall, for every such offence, forfeit and pay a sum not exceeding twenty dollars, to be recovered, with costs of suit, before any justice of the peace having competent jurisdiction thereof, without stay of execution; Provided, no suit shall be commenced against any toll gatherer for any offence committed, or penalty incurred under this section, unless the same shall be commenced within twenty days from the time of committing or incurring the same; and the defendant or defendants in any such suit or action may plead the general issue, and give this act and special matter in evidence.

Record of expenses, tolls, &c., to be kept.

SEC. 40. That every turnpike or plank road company, hereafter to be incorporated, as contemplated by this act, shall cause to be kept a fair and accurate account of the whole expense of making any such turnpike or plank road, with the expenses of toll gatherers, and all other necessary agents or officers whom the company may find it convenient to employ, and also a fair and accurate account of the amount of toll received, and the books of every such company shall always be open for the inspection of the commissioners of any county through which such road may pass, or of the agent of the General Assembly of the state; and if any turnpike or plank road company shall neglect or refuse to exhibit their accounts, agreeably to the provisions of this section, when thereunto required by such commissioners, or the agent of the General Assembly, all the rights granted by this act, incorporating such company, shall cease and determine.

Penalty for neglect.

Penalty for failure to keep road in repair.

SEC. 41. That if any turnpike or plank road company shall fail to keep its road in repair, for five days successively, any person may file a complaint, in writing, before any justice of the county, setting forth the nature of the defect complained of, designating the place in the road where it exists; and it shall be the duty of said justice to appoint two disinterested

persons as inspectors, to meet at the place complained of, within five days; and, of the time and place of meeting, reasonable notice shall be given to the gate keeper nearest the place of meeting; and the inspectors shall then examine into the truth of the matter complained of, and if they shall find the complaint to be true, they shall send a certified copy of the complaint, and of their finding thereon, to the keeper of each of the gates between which such defective place shall be, and thereafter, no toll shall be received at such gates for the intermediate distance, until the parts of the road complained of shall be fully repaired; and if the keeper of such gate shall demand and receive toll, contrary to the provisions of this act, he shall be liable to pay the sum of five dollars to the party injured, to be recovered by action of debt, before any justice of the peace having jurisdiction; and the company, moreover, shall be liable to any person injured, for damages sustained by reason of such road being suffered to remain out of repair by the neglect of the company; and the inspectors and justice of the peace shall be entitled to receive one dollar per day for their services, which shall be paid by the company, if the complaint be sustained, and if it fail, then by the complainant; and to the amount so taxed shall be added the expense of sending the notice to the gate keepers, as required [by] this act, which shall be paid as aforesaid.

Vacancy in board of directors, how filled.

SEC. 42. That in case of any vacancy, by death, resignation or otherwise, in any board of directors of any railroad, turnpike or plank road company, it shall be lawful for the remaining directors to appoint a director to fill such vacancy, and the person so appointed shall be a director of such company until the next succeeding stated election, and until his successor shall be elected and qualified.

How two or more companies may consolidate.

SEC. 43. That whenever two or more turnpike or plank road companies desire to consolidate themselves into a single corporation, they are hereby authorized and empowered so to do, in the same manner, and subject to the same rules, as provided in the twenty-first, twenty-second and twenty-third sections of this act, relative to the consolidation of railroad companies.

TO CREATE AND REGULATE MAGNETIC TELEGRAPHIC COMPANIES.

How telegraphic corporations may be created.

SEC. 44. That whenever any number of persons, as required by the first section of this act, associating to form a company, for the purpose of constructing any line or lines of Magnetic Telegraph, they shall, under their hands and seals, make a certificate, which they shall specify as follows: First, the name assumed by such company, and by which it shall be known; second, the termini of said line or lines, and the coun-

ties through which the same shall pass; third, the amount of capital stock necessary to construct said line or lines of telegraph, and the amount of each share; such certificate shall be acknowledged, certified, forwarded to the Secretary of State, recorded and copied, in the same manner as is provided in the second section of this act for the incorporation of railroad companies; and when so incorporated, are hereby authorized to construct a line or lines of magnetic telegraph, as may be named in their certificate of incorporation, and by the name and style provided in said certificate, shall be deemed a body corporate, with succession, and they and their associates to have the same general powers, as is provided in the third section of this act, and shall be subject to all the restrictions hereafter provided.

Books of subscription, and meeting for organization.

SEC. 45. The persons named in the certificate may, at any time open the books for subscription to the capital stock of the company, and when at least ten per centum shall have been subscribed, a meeting shall be called, by notice being given by any one of the corporators, for thirty days, in some newspaper printed in each county through which such magnetic telegraph may pass, if a paper is published in each county, at which meeting there shall be elected by ballot, three directors, who shall continue in office until the first annual meeting of the stockholders thereafter.

Annual meeting of stockholders.

SEC. 46. There shall be a meeting of the stockholders annually, at a place designated by said directors, when a president, three directors, a secretary and treasurer shall be chosen, who shall hold their office until the next annual election, and until their successors are duly chosen. The stockholders, at their annual meeting, may, from time to time, adopt such regulations and by-laws for the management of the business of the company, as they may see proper; and may change, at any time, the time and place of holding the annual election. Special meetings of the stockholders may be called, for the transaction of business, by the directors.

Rights of corporation.

SEC. 47. The corporation hereby created, is authorized to construct said telegraph line or lines, from point to point, along and upon any of the public roads, by the erection of the necessary fixtures, including posts, piers and abutments necessary for the wires; Provided, that the same shall not incommode the public in the use of said roads or highways.

Two or more companies may be consolidated

SEC. 48. That whenever two or more telegraph companies desire to consolidate themselves into a single corporation, they are hereby authorized and empowered so to do, in the same manner, and subject to the same rules as are provided in the twenty-first, twenty-second and twenty-third sections of this act, relative to the consolidation of railroad companies.

TO CREATE AND REGULATE GAS LIGHT AND WATER COMPANIES.

How gas and water companies may be created.

SEC. 49. That whenever any number of persons, as required by the first section of this act, associate to form gas light and water companies, for the purpose of supplying gas for lighting the streets, and public and private buildings of any city, town or village of this State, or for the purpose of supplying the inhabitants of any city, town or village with water, they shall, under their hands and seals, make a certificate, which shall specify as follows: The name of said company, and by which it shall be known; the object for which such company shall be formed; the amount of the capital stock of such company; the number of shares of which the said stock shall consist, and the names of the town, city or village, and county, in which the operations of such company are to be carried on; such certificate shall be acknowledged, certified and forwarded to the Secretary of State, recorded and copied in the same manner as is provided in the second section of this act; and [when] so incorporated, they are hereby authorized to carry on the operations named in such certificate of incorporation, and by the name and style provided in such certificate, shall be deemed a body corporate, with succession, and they and their associates to have the same general corporate powers as is provided in the third section of this act, and shall be subject to all the restrictions hereafter provided.

Election of directors.

SEC. 50. That whenever ten per centum of the capital stock of such company shall be subscribed and paid in, said corporators, or any of them, shall, in some newspaper published in the county, give notice of the time and place for holding a meeting for the election of five directors, and the election shall be made by the stockholders attending for such purpose, either personally or by proxy, and each share of capital stock shall be entitled to one vote; said election to be superintended by one or more of said corporations [corporators.]

Officers.

SEC. 51. There shall be a president of such company, who shall be designated from the number of directors, and also such subordinate officers as the company, by its by-laws, may designate, who may be elected or appointed, and required to give such security for the faithful performance of the duties of their office, as the company, by its by-laws, may require; for which purpose such company shall have the power, and are hereby authorized to make such rules, regulations and by-laws as may be necessary for their regulation, not inconsistent with the constitution and laws of this State.

Annual meeting of stockholders.

SEC. 52. There shall be an annual meeting of the stockholders, at a place designated by said directors, for the pur-

pose of electing officers, who shall hold their offices until the next annual election, and until their successors are duly chosen; said officers shall have the general superintendence of the affairs of the company, and the management of its business, and may call special meetings of the stockholders for the transaction of business.

Powers of gas companies.

SEC. 53. Any corporations formed under this act, shall have full power, if a gas company, to manufacture and sell, and to furnish such quantities of gas or water as may be required in the city, town or village where located, for public and private buildings, or for other purposes; and such corporation shall have power to lay conductors for conducting water or gas through the streets, lands, alleys and squares in such city, town or village, with the consent of the municipal authorities of said city, town or village, and under such reasonable regulations as they may prescribe.

Corporations may contract for gas or water.

SEC. 54. The municipal authorities of any city, town or village, in which any gas light or water company shall be organized under this act, are hereby authorized to contract with any such corporation, for the lighting or supplying with water, the streets, lands, lanes, squares and public places in any such city, town or village.

TO CREATE AND REGULATE BRIDGE COMPANIES.

How bridge companies may be created, &c.

SEC. 55. That whenever any number of persons, as named in the first section of this act, associate themselves together for the purpose of constructing a bridge over any of the streams of water in this State, they shall, under their hands and seals, make a certificate, specifying the amount of capital stock necessary, the amount of each share, the place where said bridge is to be built, and on what stream; said certificates shall be acknowledged, certified, and forwarded to the Secretary of State, recorded and copied as is provided in the second section of this act, and when so incorporated, they are hereby authorized to carry on the operations named in said certificate of incorporation, and by the name and style provided in such certificate, shall be deemed a body corporate, with succession; and they and their associates, successors and assigns, shall have the same general corporate powers as are provided in the third section of this act, and subject to the all the restrictions hereafter provided; but in all cases, the banks on both sides of the stream, where the said bridge is to be built, shall be owned by said company, or that they obtain in writing the consent of the owner or owners of the banks where the said bridge is to be erected, to erect the said bridge as aforesaid, unless the said banks at such point shall be in a public highway.

Subscription books, election of officers, &c.

SEC. 56. That the corporators herein named, shall open the books of the said company, for subscription to the capital stock of said bridge, and so soon thereafter as ten per cent. of the capital shall be subscribed, they shall call a meeting of the persons who have subscribed stock as aforesaid, and shall then and there proceed to elect five directors, who shall be stockholders in the said company, who shall hold their offices, as such directors, for one year from and after said election, and until their successors are elected and qualified, one of whom shall be president, and one treasurer, and one secretary, to be named on the tickets when voted for by the stockholders as aforesaid; each stockholder shall be entitled to one vote for each and every share of stock that he may own, and after the first election, no stockholder shall be entitled to a greater number of votes, than the number of shares that he may have paid into the said company.

Bond and duties of treasurer.

SEC. 57. That the treasurer of the said company, before entering upon the duties of his office, shall enter into a bond, with good and sufficient security, to be approved of by the said board of directors, payable to the said company, conditioned for the faithful performance of all and singular the duties of his said office, and that he will well and truly account for, and pay over to the said company all moneys and property that shall from time to time come into his hands by virtue of his said office, and that he will use due and proper diligence to collect all moneys and demands that from time to time shall be due and owing to the said company, which shall be his duty by law to collect.

Duties of president.

SEC. 58. The president shall preside at all meetings, when present, and not otherwise incapacitated, in which case, or in case of his absence, the board of directors shall choose a president from among their number, who shall perform the duties of the president at such meeting, and perform such other duties as may, from time to time, be pointed out by the by-laws and the rules of said company.

Duties of secretary.

SEC. 59. The secretary shall keep a record of all meetings of the board of directors, and other proceedings of said company, not required to be performed by any other officers of the said board, and perform such other and further duties as may be assigned him, from time to time, by the rules and by-laws of the said company.

By-laws may be changed.

SEC. 60. That the said company shall have power, from time to time, at any regular meeting of the board of directors, to make, alter or change, such by-laws and rules for the government of the said company.

Rates of toll to be published.

SEC. 61. That the company, previous to receiving any tolls upon said bridge, shall set up and keep in a conspicuous place on the said bridge, a board, on which shall be written, painted or printed, in a plain and legible manner, the rates of toll,

which rates of toll shall have been prescribed by the court of common pleas of the proper county; and if any company shall demand and receive any greater rate of tolls than the rate prescribed by said court, they shall be subject to a fine of ten dollars.

Compensation of officers.

SEC. 62. That the compensation of the President and other officers of such company, shall be regulated and fixed by the rules and by-laws of such company, from time to time.

TO CREATE AND REGULATE MANUFACTURING COMPANIES.

How manufacturing companies may be created.

SEC. 63. That whenever any number of persons, as named in the first section of this act, associate themselves together for the purpose of engaging in the business of manufacturing, they shall, under their hands and seals, make a certificate, specifying the amount of capital stock necessary, the amount of each share, the name of the place where such manufacturing establishment shall be located, the name and style by which such company shall be known; said certificate shall be acknowledged, certified and forwarded to the Secretary of State, recorded and copied as is provided in the second section of this act, and when so incorporated, they are hereby authorized to carry on the manufacturing operations named in said certificate of incorporation, and by the name and style provided in said certificate, shall be deemed a body corporate, with succession, and they and their associates, successors and assigns, shall have the same general corporate powers as are provided in the third section of this act, and subject to all the restrictions hereafter provided.

When directors shall be chosen —their duties, &c.

SEC. 64. The annual meeting of the stockholders shall be held on the first Monday of January in each year, at which meeting the directors of the company shall be elected, and such other lawful business done, as the stockholders shall deem necessary and proper; and, should they fail to elect directors at the annual meeting, they shall hold a special meeting at some subsequent time, for the purpose, by giving thirty days notice thereof, in some newspaper of general circulation in such county. The directors shall hold their offices until their successors are chosen and qualified; but no person shall be a director after ceasing to be a stockholder. Immediately after the election, the directors shall elect one of their number president of the corporation, and may appoint such other officers and agents as they may deem proper, to transact their business, and prescribe the amount of compensation to be allowed to them for their services; and such officers, when required by the by-laws, shall give bonds to the satisfaction of the directors, for the faithful discharge of the trusts committed to them; shall have power, and are hereby authorized to make such rules,

regulations and by-laws, as may be necessary for their regulation, not inconsistent with the constitution of this state. The directors shall have the general management of the affairs of the company, and may dispose of the residue of the capital stock at any time remaining unsubscribed, in such manner as the stockholders for the time being may prescribe, and may employ the capital and means of the company, in such manufactures as they shall deem best for the company, and for the erection and maintainance of such machinery, dams, buildings, races, water courses, &c., subject always to the control of the stockholders, as may be necessary in the busines of manufacturing, but for no other purpose than those connected with, and pertaining to said business; they shall cause a record to be kept of all stock subscribed and transferred, and of all business transactions, and their books and records shall at all reasonable times be open to the inspection of any and every stockholder; they shall also, when required, present to the stockholders reports in writing of the situation and amount of business of the company, and declare and make such dividends of the profits from the business of the company, not reducing the capital stock while they have outstanding liabilities, as they shall deem expedient.

Corporators to be commissioners to open books, &c.

SEC. 65. The persons named in the certificate of incorporation, or a majority of them, shall be commissioners to open books for the subscription to the capital stock of said company, at such times and places as they shall deem proper, and the said company are authorized to commence operations upon the subscription of ten per cent. of said stock.

TO PROVIDE FOR THE INCORPORATION OF RELIGIOUS AND OTHER SOCIETIES.

Formation of religious societies, fire and other companies.

SEC. 66. That from and after the passage of this act, it shall be lawful for any religious sect or denomination, fire company, or any literary, scientific or benevolent association, (other than colleges, universities, academies or seminaries,) within this state, to elect, at a meeting of a majority of the members of any organized church, fire company, literary, scientific or benevolent association, as aforesaid, called for that purpose, any number of their members, not less than three, to serve as trustees or directors, and one member as clerk, who shall hold their office during the pleasure of the society or association.

Duties of clerk, county auditor, &c.

SEC. 67. That the clerk so appointed, shall make a true record of the proceedings of the meeting, provided for by the first section of this act, certify and deliver the same to the recorder of the county in which such meeting shall be held, together with the name by which such church, fire company, or association, shall thereafter desire to be known; and it shall be the duty of each county recorder in this state, immediately upon

the receipt of such certified statement, to record the same in a book of record, to be kept by him, provided for that purpose at the expense of his county, for which service he may demand and receive, the sum of ten cents per hundred words; and from and after making such record by the county recorder, the said trustees or directors, and their associated members and successors, shall be invested with the powers, privileges and immunities, incident to aggregate corporations; and a certified transcript of the record herein authorized to be made by the county recorder, shall be deemed and taken, in all courts and places whatsoever, in this State, as evidence of the existence of such association and corporation.

Office and duties of directors, &c.

SEC. 68. The trustees or directors who may be appointed under the provisions of this act, and their successors in office, shall have perpetual succession, by such name as may be designated, and by such name shall be legally capable of contracting, and of prosecuting and defending suits, and shall have capacity to acquire, hold, enjoy, dispose of, and convey, all property, real or personal, which they may acquire by purchase, donation, or otherwise, for the purpose of carrying out the intentons of such society or association, but they shall not acquire or hold property for any other purpose.

Officers, rules, &c.

SEC. 69. That such society or association, when incorporated, may elect such officers and make such rules and regulations, as may be necessary and expedient, for its own government, and the management of its fiscal and other affairs, to effect their respective objects.

Vacancies, how filled.

SEC. 70. That if said board of trustees or directors, as is provided for by the sixty-sixth section of this act, shall be vacated, either in whole or in part, by death, resignation, or otherwise, such board of trustees or directors may be revived, or such vacancy or vacancies filled, in the manner pointed out in the sixty-sixth section of this act, for the original organization of said board, and a majority of said trustees or directors, shall be a quorum for the transaction of business.

GENERAL PROVISIONS REGULATING INCORPORATED COMPANIES.

Old companies may come under this act.

SEC. 71. All companies now incorporated in this state, and actually doing business, may accept any of the provisions of this act, and when so accepted, and a certified copy of their acceptance filed with the Secretary of State, that portion of their charters inconsistent with the provisions of this act, is hereby repealed.

Annual exhibit to be published.

SEC. 72. All companies hereafter incorporated, or accepting the provisions of this act, except those named in the sixty-sixth section, are required to make and publish, in some newspaper of general circulation in the county where the principal

office is located, an annual exhibit, showing a full, fair and detailed statement of the condition of such company, which statement shall be verified by the oath of the president, secretary, or clerk.

Not to engage in business not specified in charter.

SEC. 73. No company or association incorporated under the provisions of this act, shall employ its stock, means, assets or other property, directly or indirectly, for any other purpose whatever, than to accomplish the legitimate objects of its creation.

Capital stock may be reduced.

SEC. 74. That the board of directors or trustees, of any company heretofore incorporated, or which may hereafter be formed, under any law of this state, may, with the written consent of the persons in whose name a majority of the shares of the capital stock thereof shall stand on the books of said company, reduce the amount of said capital stock, and the nominal value of all the shares thereof, and issue certificates therefor; Provided, that the rights of creditors shall not be affected, or in any wise impaired, by the reduction of the capital stock of any such corporation.

Joint stock companies may have time extended.

SEC. 75. That whenever any joint stock company heretofore incorporated, for the purpose of erecting any public improvement in this State, whose charter is limited as to the time for completion of said improvement, and when any such company has been legally organized, and has actually commenced and has in progress toward completion, such public improvement, it shall be lawful for any such company to have further time allowed for the final completion of said work, as is hereinafter provided.

Petition for extension of time, to be made to common pleas, &c.

SEC. 76. That upon petition being filed by the directors of any corporation in the court of common pleas of the county in which the principal office of such corporation is located, and upon giving thirty days notice by publication in a newspaper of general circulation in said county, of the object and prayer of such petition, said court shall, at any regular term after the publication of said notice, upon good cause shown, decree the extension of the time for the completion of said improvement to such period as shall appear to such court just and reasonable.

Name of corporation, how changed.

SEC. 77. That the name of any corporation may be changed in the same manner as is provided for the extension of the time of the completion of any public improvement in the preceding section; and in case the name of any corporation is changed, as aforesaid, a copy of the decree shall be filed with the Secretary of State, or in the office of the county recorder, if the corporation whose name is so changed be of the class organized under the sixty-sixth section of this act, and also published in some newspaper of general circulation in the

county aforesaid. When the provisions aforesaid have been complied with, such company shall thereafter be known by such new name, and shall have all the powers and be subject to the same restrictions as if no such change of name had been made, and no such change of name shall affect, in any manner, the rights of such company, or of any individual.

Individual liability.

SEC. 78. All stockholders of any railroad, turnpike, or plank road, magnetic telegraph or bridge company, shall be deemed and held liable to an amount equal to their stock subscribed, in addition to said stock, for the purpose of securing the creditors of such company.

Same subject.

SEC. 79. All stockholders of any joint stock company, organized under the provisions of this act, except as hereinafter provided, shall be deemed and held individually liable for all the debts due and owing by said company; and the trustees or directors of every society or association, incorporated under the provisions of the sixty-sixth section of this act, shall be deemed and held individually liable for all debts contracted by them for their respective societies or associations.

Change of location or termini of roads.

SEC. 80. A change in the location and termini of any railroad, turnpike and plank road, may be made, in the same manner as is provided in the 76th section of this act, for the further extension of time; Provided, that such company shall be responsible for any damages or injury arising therefrom, as is provided in the eleventh section of this act, in relation to the liability of railroad companies.

Suits against corporations, how brought, &c.

SEC. 81. Suits may be brought against corporations other than railroad companies, in the same manner as against individuals; and service shall be made on the president, directors, secretary, or agent, in person, or by leaving a copy at the principal office of such company; and in making such service, the sheriff and constable are authorized to make service without, as well as within their respective counties; and the real and personal property of corporations shall be liable to execution, as other property.

Officers to be residents, &c.

SEC. 82. All officers of any incorporated companies, organized under the provisions of this act, shall be residents of this state; and whenever any company, association or society, heretofore or hereafter incorporated, shall have failed to elect its officers at the time designated, it shall be lawful for such company, association or society, to call a meeting and elect its officers, who shall hold their respective offices until the time specified for the annual, or other fixed time for holding such election; and whenever any incorporated company heretofore organized, or that may hereafter be organized, under the provisions of this act, shall have a specified time fixed for its annual meeting, a majority of the stockholders in interest, may,

at any regular annual meeting, change the time of the annual meeting thereof.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
WILLIAM MEDILL,
President of the Senate.

May 1, 1852.

AN ACT

Relating to Wills, and to repeal former acts relating thereto.

Who may devise by will.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That any person of full age and sound memory, having an interest in lands, tenements or hereditaments, or any annuity or rent charged upon or issuing out of the same, or any goods, chattels, rights, credits, choses in action or possession, or any other property of any description whatever, may give and devise the same to any person, by last will and testament, lawfully executed; subject, nevertheless, to the rights of creditors, and to the provisions of this act, and of an act entitled "an act to restrain the entailment of real estate."

Wills to be written, signed and witnessed.

SEC. 2. Every last will and testament, (except such as is mentioned in the seventy-fourth section of this act,) shall be in writing, and signed at the end thereof, by the party making the same, or by some other person in his presence and by his express direction, and shall be attested and subscribed in the presence of such party, by two or more competent witnesses, who saw the testator subscribe, or heard him acknowledge the same.

May be deposited with probate judge, &c.

SEC. 3. Any will in writing, may be deposited, by the person making the same, or by some person for him, in the office of the judge of the probate court, in the county in which such testator lives, to be safely kept until delivered or disposed of as hereinafter provided; and said probate judge, on being paid the fee of one dollar therefor, shall receive, and keep such will, and give a certificate of deposit thereof.

Directions as to deposited wills.

SEC. 4. Every will intended to be deposited as aforesaid, shall be enclosed in a sealed wrapper, which shall have endorsed thereon the name of the testator, and the said probate judge shall endorse thereon, the day when, and the person by whom it was delivered; and may also have endorsed the name of any person to whom it is to be delivered after the death of the testator; and it shall not be opened or read until delivered to a person entitled to receive the same, or otherwise disposed of as hereinafter provided.

To whom it may be delivered.

SEC. 5. Such will shall, during the lifetime of the testator, be delivered only to himself, or to some person authorized by him, by an order in writing, duly proved by the oath of a subscribing witness; and after his death, it shall be delivered to the person named in the endorsement on the wrapper of the will, if there be any person so named, who shall demand it.

How disposed of, after death of testator.

SEC. 6. If no person shall demand the will in pursuance of such appointment, it shall be publicly opened in the probate court, within two months after notice of the death of the testator, and shall be retained in the office of the probate judge, until offered for probate; or if the jurisdiction belongs to any other court, it shall be delivered to the executors or other persons entitled to the custody of it, to be presented for probate in such other court; and if the jurisdiction of such will belongs to the probate judge opening the same, he shall immediately give notice to the executor or executors, if any are named in such will, and if none are named therein, then to the other persons immediately interested, of the existence of such will.

How to proceed when real or personal estate is devised.

SEC. 7. If any real or personal estate shall be devised, or bequeathed, by the last will, the executors of such will, or any person interested therein, may cause the same to be brought before the probate court of the county in which such estate may be, and the court may, by citation, attachment or warrant, or if circumstances require it, by warrant or attachment in the first instance, compel the person having the custody or control of such will, to produce it before the court for the purpose of being proved.

Process, where issued.

SEC. 8. The process mentioned in the preceding section, may be issued into any county in the state, and shall be served and returned by the sheriff, or other officer to whom it may be delivered.

Liability for neglect to serve.

SEC. 9. The officer to whom such process may be delivered, shall be liable for neglect in the service or return of such process, in like manner as sheriffs are, or may be by law, liable for neglect in not serving or returning a capias issued upon an indictment.

Penalty for refusal or neglect to produce will for probate.

SEC. 10. If the person having the custody or control of a will, shall, without any reasonable cause, neglect or refuse to

produce the same for probate, after being duly cited for that purpose, he may be committed to the jail of the county, there to be kept in close custody until he shall produce the will, and he shall be further liable to the action of any party aggrieved, for the damages which may be sustained by such neglect or refusal.

In case of devise to a witness of a will.

SEC. 11. If a devise or bequest is given to a person who is a witness to the will, and the will cannot otherwise be proved than by the testimony of such witness, the devise or bequest shall be void, and the witness shall be competent to give testimony of the execution of the will, in like manner as if such devise or bequest had not been made; and if such witness would have been entitled to any share of the testator's estate, in case the will was not established, so much of such share as shall not exceed the bequest or devise to him, shall be saved to him; and the devisees and legatees shall contribute for that purpose in the mode directed in the forty-first section of this act.

Examination of witnesses.

SEC. 12. The said court shall cause the witnesses to such will, and such other witnesses as any person interested in having the same admitted to probate, may desire, to come before such court; and said witnesses shall be examined in open court, and their testimony reduced to writing, and filed.

Absent and incompetent witnesses.

SEC. 13. If it shall appear to the court, when the will is offered for probate, that any witness thereto is gone to parts unknown; or if the witnesses to a will were competent, at the time of attesting its execution, and afterwards become incompetent, the will may be admitted to probate, and allowed, upon such proof as would be satisfactory, and in like manner as if such absent or incompetent witnesses were dead.

Depositions, how taken.

SEC. 14. The court may issue a commission, with the will annexed, directed to any suitable person or persons, to take the deposition of any witness to a will, who resides out of the jurisdiction of the court, or who resides within it, and is infirm and unable to attend court; and every deposition so taken, certified and returned, by any one or more of the persons named in such commission, shall be as valid as if taken in open court.

Admission to probate.

SEC. 15. If it shall appear that such will was duly attested and executed, and that the testator, at the time of executing the same, was of full age, and of sound mind and memory, and not under any restraint, the court shall admit the will to probate.

Filed and recorded.

SEC. 16. Every will, when admitted to probate as above mentioned, shall be filed in the office of the probate judge, and recorded, together with the testimony, by said judge or his clerk, in a book which shall be kept by him for that purpose.

Certified copies of a will, to be effectual as evidence.

SEC. 17. A copy of such recorded will, with a copy of the order of probate annexed thereto, certified by the said judge of probate, under seal of his court, shall be as effectual in all cases, as the original would be, if produced and established by proof.

Records in each county where real estate is situate.

SEC. 18. If real estate devised by will, is situate in any other county than that in which the will is proved, an authenticated copy of the will and order of probate, shall be admitted to record in the office of the probate judge of each county in which such real estate may be situate, upon the order of such probate judge, and shall have the same validity therein, as if probate had been had in such county.

When will is not contested for two years.

SEC. 19. If no person interested, shall, within two years after probate had, appear and contest the validity of the will, the probate shall be forever binding, saving, however, to infants, married women, and persons absent from the state, or of insane mind, or in captivity, the like period, after the respective disabilities are removed.

How a will may be contested.

SEC. 20. The mode of contesting a will, shall be by bill in chancery, which may be filed in the court of common pleas of the proper county, within said two years, by any person interested in the will or estate of the deceased.

How issue shall be made.

SEC. 21. In such suit in chancery, an issue shall be made up, whether the writing produced be the last will of the testator or not, which shall be tried by a jury, whose verdict shall be final between the parties, unless the court shall grant a new trial, or the cause be appealed to the district court.

Evidence of validity.

SEC. 22. The order of probate shall be prima facie evidence, on the trial of said issue, of the due attestation, execution and validity of said will.

Testimony of deceased witnesses, &c.

SEC. 23. A certified copy of the testimony of such of the witnesses examined upon the original probate, as are out of the jurisdiction of the court, dead, or have become incompetent since the probate, shall be admitted in evidence upon such trial.

Apeals to district court.

SEC. 24. In all suits in the court of common pleas, in which any will may be contested, appeals may be had from the final decrees rendered therein, as in other suits in chancery, to the district court; and said district court shall, on the application of either party in the trial of such contested will, direct the issue that was tried in the court below, to be re-tried by a jury, in said district court, in the same manner as is provided by law, in such cases, in the court of common pleas.

Rights of infants, insane, &c.

SEC. 25. The rights of infants, married women, or persons absent from the state, or of insane mind, or in captivity, shall not be concluded by the verdict of the jury, or the decree of the court thereon, mentioned in the twenty-first and twenty-fourth sections of this act; but such persons may, within two years after their respective disabilities are removed, and not thereafter, contest by bill in chancery, and in the manner provided in the five preceding sections of this act, the said verdict and decree.

Copies of wills executed in other states.

SEC. 26. Authenticated copies of wills, executed and proved according to the laws of any state or territory of the United States, relative to any property in the State of Ohio, may be admitted to record in the probate court of any county in this state, where any part of such property may be situated; and such authenticated copies, so recorded, shall have the same validity in law, as wills made in this state, in conformity with the laws thereof, are declared to have; Provided, that where any such will, or authenticated copy, has been or shall hereafter be admitted to record, in the probate court of any county in this state, where any part of such property may be situated, a copy of such recorded will, with a copy of the order to record the same, annexed thereto, certified by the probate judge, under the seal of his court, may be filed and recorded in the office of the probate judge of any other county in this state, where any part of such property is situated, and shall be as effectual, in all cases, as the authenticated copy of said will would be, if proved and admitted to record by the court.

As to wills executed in foreign countries.

SEC. 27. A will, executed, proved and allowed, in any country other than the United States, and territories thereof, according to the laws of such foreign state or country, may be allowed and admitted to record in this state, in the manner and for the purpose mentioned in the following sections.

Copy to be produced to probate judge, &c.

SEC. 28. A copy of the will and probate thereof, duly authenticated, shall be produced by the executor, or by any person interested therein, to the probate judge of the county in which there is any estate upon which the will may operate, whereupon said probate judge shall continue the motion to admit such will to probate, for the term of two months; and notice of the filing of such application, shall be given to all persons interested, in some public newspaper, printed or in general circulation in the county where such motion is made, at least three weeks successively; the first publication to be at least forty days before the time set for the final hearing of said motion.

If allowable, to be filed, &c.

SEC. 29. If, on hearing, it shall appear to the court that the instrument ought to be allowed in this state, the court shall order the copy to be filed and recorded; and the will, and the probate and record thereof, shall then have the same force and effect, as if the will had been originally proved and allowed,

in the same court, in the usual manner; Provided, however, that nothing herein contained shall be construed to give any operation or effect to the will of an alien, different from what it would have had if originally proved and allowed in this state.

Court to grant letters testamentary, &c.

SEC. 30. After allowing and admitting to record a will, pursuant to the four preceding sections of this act, the court may grant letters testamentary thereon, or letters of administration with the will annexed, and shall proceed in the settlement of the estate, that may be found in this state; and the executor taking out letters, or the administrator, with the will annexed, shall have the same power to sell and convey the real or personal estate, by virtue of the will or the law, as other executors, or administrators with the will annexed, shall or may have by law.

Wills not admitted to probate, void, as to real estate.

SEC. 31. No will shall be effectual to pass real or personal estate, unless it shall have been duly admitted to probate or record, as provided in this act.

No devisee entitled to estate, who neglects to produce will for probate.

SEC. 32. No lands, tenements, or hereditaments, shall pass to any devisee in a will, who shall know of the existence thereof, and have the same in his power to control, for the term of three years, unless, within that time, he shall cause the same to be offered for, or admitted to probate; and by such neglect, the estate devised to such devisee, shall descend to the heirs of the testator.

Devise in a will, not revoked by a subsequent agreement, &c.

SEC. 33. A bond, agreement, or covenant, made for a valuable consideration by a testator, to convey any property devised or bequeathed in any will previously made, shall not be deemed a revocation of such previous devise or bequest, either at law or in equity; but such property shall pass by such devise or bequest, subject to the same remedies on such bond, agreement, or covenant, for a specific performance or otherwise, against the devisee or legatees, as might be had by law against the heirs of the testator, or his next of kin, if the same had descended to them.

A charge or incumbrance not to be deemed a revocation of a will.

SEC. 34. A charge or incumbrance upon any real or personal estate, for the purpose of securing the payment of money, or the performance of any covenant, shall not be deemed a revocation of any will relating to the same estate, previously executed; but the devises and legacies therein contained, shall pass and take effect, subject to such charge or incumbrance.

When an estate or interest is altered by conveyance, &c.

SEC. 35. A conveyance, settlement, deed, or other act of the testator, by which his estate or interest in property previously devised or bequeathed by him, shall be altered, but not wholly divested, shall not be deemed a revocation of the devise or bequest of such property, but such devises or bequest shall pass to the devisee or legatee, the actual estate or interest of the testator, which would otherwise descend to his heirs, or pass to his next of kin; unless in the instrument by which such

alteration is made, the intention is declared, that it shall operate as a revocation of such previous devise or request.

When an alteration shall operate as a revocation.

Sec. 36. But if the provisions of the instrument by which such alteration is made, are wholly inconsistent with the terms and nature of such previous devise or bequest, such instrument shall operate as a revocation thereof, unless such provisions depend on a condition or contingency, and such condition be not performed, or such contingency do not happen.

Will of an unmarried woman.

Sec. 37. A will, executed by an unmarried woman, shall not be deemed revoked by her subsequent marriage.

In case of child born after death of testator.

Sec. 38. If the testator had no children at the time of executing his will, but shall afterwards have a child living, or born alive after his death, such will shall be deemed revoked, unless provisions shall have been made for such child by some settlement, or unless such child shall have been provided for in the will, or in such way mentioned therein, as to show an intention not to make such provision, and no other evidence, to rebut the presumption or revocation, shall be received.

How a will shall be revoked.

Sec. 39. A will shall be revoked by the testator tearing, canceling, obliterating, or destroying the same, (with the intention of revoking it,) by the testator himself, or by some person in his presence, or by his direction; or by some other will or codicil, in writing, executed as prescribed by this act; or by some other writing, signed, attested and subscribed, in the manner provided by this act for the making of a will; but nothing herein contained shall prevent the revocation implied by law, from subsequent changes in the condition or circumstances of the testator.

Destruction of a subsequent will, &c.

Sec. 40. If, after the making of any will, the testator shall duly make and execute a second will, the destruction, canceling or revocation of such second will, shall not revive the first will, unless it appear by the terms of such revocation, that it was his intention to revive and give effect to his first will; or unless, after such destruction, canceling, or revocation, he shall duly republish his first will.

In cases of children absent or supposed to be dead, &c.

Sec. 41. When a testator, at the time of executing his will, shall have a child absent and reported to be dead, or, having a child at the time of executing the will, shall afterwards have a child who is not provided for in the will, the absent child, or the child born after the execution of the will, shall take the same share of the estate, both real and personal, that they would have been entitled to if the testator had died intestate; towards raising which portion, the devisees and legatees shall equally contribute, in proportion to the value of what they shall respectively receive under the will, unless, in consequence of a specific devise or bequest, or of some other provisions in the will; a different apportionment among the devisees and legatees shall be found necessary, in order to give effect to the intention of the testator, as to that part

of the estate which shall pass by the will; Provided, that if such child, supposed to be dead at the time of the execution of the will, shall have a child or children, provision for whom is made by the testator, the other legatees and devisees shall not be required to contribute, but such child, supposed to have been dead, shall take the provision made for his child or children, by the testator, or such part thereof as the circumstances of the case, in the opinion of the court of proper jurisdiction, may think just and equitable.

Same subject.

SEC. 42. In settling the extent of the claim of any child, as provided for in the preceding section, any portion of the estate of the testator received by a party interested, by way of advancement, shall be deemed a portion of the estate, and charged to the party who has received the same.

Rights of widows, as to wills.

SEC. 43. If any provision be made for a widow, in the will of her husband, she shall, within one year after probate of the will, make her election, whether she will take such provision, or be endowed of his lands; but she shall not be entitled to both, unless it plainly appears by the will, to have been the intention of the testator that she should have such provision in addition to her dower.

When a widow elects to take under the will.

SEC. 44. The election of the widow to take under the will, shall be made by her in person, in the Probate Court of the proper county, except as hereinafter provided; and on the application by her to take under the will, it shall be the duty of the Court to explain to her the provisions of the will, her rights under it, and by law, in the event of her refusal to take under the will. The election of the widow to take under the will shall be entered upon the minutes of the Court, and if the widow shall fail to make such election, she shall retain her dower, and such share of the personal estate of her husband as she would be entitled to by law, in case her husband had died intestate. If she elect to take under the will, she shall be barred of her dower and take under the will alone; Provided, that said election by the widow to take under the will, shall not bar her of the right to remain in the mansion of her husband, and receive one year's allowance for the support of herself and children, as now provided by law, unless the will shall expressly otherwise direct.

Commission may be issued in case of inability or non-residence of a widow.

SEC. 45. If the widow of the testator shall be unable to appear in court, by reason of ill health, or is not a resident of the county in which said election is required to be made, it shall be the duty of the Probate Court, on an application made in her behalf, to issue a commission, with a copy of the will annexed, directed to any suitable person, to take the election of said widow, to accept the provisions of said will in lieu of the provision made for her by law; and it shall be the duty of the court in said commission, to direct such person to explain to said widow her rights under the will, and by law.

Insane or imbecile widows.

SEC. 46. If the widow of any testator shall be unable to make an election by reason of insanity or imbecility of mind, it shall be the duty of the Probate Court, so soon as the facts shall come to the knowledge of the court, at any time within one year after the death of the testator, to appoint some suitable person to ascertain the value of the provision made by the testator for her in his will, in lieu of the provisions made by law, and the value of her rights by law in the estate of her husband; and if the court shall be satisfied, on the coming in of the report of the person appointed to make such investigation, that the provision made by the testator for his widow, as aforesaid, in his will, is more valuable and better for her than the provision by law, said court shall enter upon its minute book, an election for said insane or imbecile widow, that she, by virtue of the proceeding herein provided for by the court, elects to take under the will of her husband, which election, when so made, shall have the same force and effect as provided in section forty-four.

When a will is lost, spoliated or destroyed.

SEC. 47. That the several Courts of Probate within this State, shall have full power and authority to admit to probate, any last will and testament which such court may be satisfied was duly executed according to the provisions of the act upon that subject, in force at the time of the execution of such last will and testament, and not revoked at the death of the testator, where such original will has been lost, spoliated, or destroyed, subsequently to the death of such testator, and cannot be produced in court in as full, ample, and complete a manner, as such courts now admit to probate last wills and testaments, the originals of which are actually produced in court for probate.

Same subject.

SEC. 48. In all cases where application shall be hereafter made to the probate court, to admit to probate a will duly executed as aforesaid, and which has been lost, spoliated, or destroyed, as aforesaid, it shall be the duty of the party seeking to prove the same, to give a written notice to all persons whose interest it may be to resist the probate, and who reside in the county where the testator resided at the time of his death, or to their agent or attorney, five days before the day on which such proof is to be made, or to give notice, by publication in a newspaper printed in the county, thirty days before the day set for hearing such proof.

Same subject.

SEC. 49. In all such cases, the said court shall cause the witnesses to such will so executed and lost, spoliated or destroyed, and not revoked, and such other witnesses as any person interested in having such will admitted to probate, may desire, to come before such court, and said witnesses shall be examined by said probate judge, and their testimony reduced to writing, and filed by him in his court; Provided, that in all cases where it may be necessary so to do, in conse-

quence of witnesses residing out of the jurisdiction of said court, or who reside within such jurisdiction and who are infirm or unable to attend court, the court may order the testimony of such witnesses to be taken and reduced to writing by some competent person, which testimony shall also be filed in such probate court.

Same subject.

SEC. 50. If the court, upon such proof, shall be satisfied that such last will and testament was duly executed in the mode provided by the law in force at the time of its execution, that the contents thereof are substantially proven, and that the same was unrevoked at the death of the testator, and has been lost, spoliated or destroyed, subsequently to the death of such testator, such court shall find and establish the contents of such will, as near as the same can be ascertained, and cause the same, and the testimony taken in the case, to be recorded in said court.

Same subject.

SEC. 51. The contents of any such last will and testament so found, established, and admitted to probate, as aforesaid, shall be as effectual to pass real and personal estate, and for all other purposes, as if the original will had been admitted to probate and record, according to the provisions of this act; and such wills shall, in all respects, be governed by the laws in force relating to other wills, not only as relates to the contest of the same, but in all other matters.

Rights of purchaser without knowledge of a will.

SEC. 52. The title of any bona fide purchaser, without knowledge of a will, to any land situated in this State, derived from the heir or heirs of any person not a resident of this State at the time of his or her death, shall not be defeated by the production of the will of such decedent, unless such will shall be offered for record in this State, within four years from the final probate and establishment of such will, in the State or territory in which it may have been admitted to probate; Provided, that the rights of infants, married women, or persons of insane mind and memory, shall not be concluded by any delay or failure to record such will in this State, until two years after their respective disabilities are removed; Provided, further, that no proceeding shall be had in this State, to contest a will executed and proved according to the law of any State or territory of the United States, or of any foreign country, relative to property in this State; but if the said will shall be set aside in the State, territory or country in which it is executed and proved, the same shall be held of no validity in this State, as to all persons claiming under said will, with notice of the same being set aside as aforesaid; and as to all other persons, from the time that an authenticated copy of the final order or decree setting the same aside, is filed in the office of the Probate Judge of the county in which said will is recorded.

Life bequests.

SEC. 53. When lands, tenements, or hereditaments are

given by will, to any person for his life, and after his death to his heirs in fee, or by words to that effect, the conveyance shall be construed to vest an estate for life only, in such first taker, and a remainder in fee simple in his heirs.

Property acquired subsequent to making of will.

Sec. 54. Any estate, right or interest, in lands or personal estate, or other property acquired by the testator after the making of his will, shall pass thereby, in like manner, as if held or passed [possessed] at the time of making the will, if such shall clearly and manifestly appear by the will to have been the intention of the testator.

Construction.

Sec. 55. Every devise of lands, tenements, or hereditaments, in any will hereafter made, shall be construed to convey all the estate of the devisor therein, which he could lawfully devise, unless it shall clearly appear by the will that the devisor intended to convey a less estate.

When a devisee dies, leaving issue, &c.

Sec. 56. When a devise of real or personal estate is made to any child or other relative of the testator, if such child or other relative shall die, leaving issue surviving the testator, such issue shall take the estate devised, in the same manner as the devisee would have done if he had survived the testator, unless a different disposition shall be made or required by the will.

Undevised real estate to be first applied in payment of debts, &c.

Sec. 57. When any part of the real estate of a testator shall descend to his heirs, by reason of its not being devised or disposed of by his will, and his personal estate shall be insufficient for the payment of his debts, the undevised real estate shall be first chargeable with the debts, in exoneration, as far as it will go, of the real estate that is devised, unless it shall appear from the will, that a different arrangement of his assets, for the payment of his debts, was made by the testator; in which case they shall be applied for that purpose in conformity with the provisions of the will.

Devisees to contribute proportionate shares for payment of debts, &c.

Sec. 58. When any estate, real or personal, that is devised, shall be taken from the devisee for the payment of the debts of the testator, all the other devisees and legatees shall contribute their respective proportions of the loss to the person from whom the estate is taken, so as to make the loss fall equally on all the devisees and legatees, according to the value of the property received by each of them, excepting all as provided in the following section.

Except in cases of specific devise or bequest.

Sec. 59. If, in such case, the testator shall, by making a specific devise or bequest, have virtually exempted any devisee or legatee from his liability to contribute, with the others, for the payment of the debts, or if he shall, by any other provision in the will, have prescribed or required any appropriation of his estate, for the payment of his debts, different from that prescribed in the preceding section, the estate shall be appropriated and applied in conformity with the provisions of the will.

But the whole estate held to pay the debts.

SEC. 60. Nothing contained in the two preceding sections, shall impair, or in any way affect, the liability of the whole estate of the testator, for the payment of his debts; but the provisions of these sections shall apply only to the marshaling of the assets as between those who hold or claim under the will.

Rule as to children born after will, &c.

SEC. 61. When any part of the estate of the testator descends to a child born after the execution of the will, or to a child absent and reported to be dead, (under the forty-first section of this act,) or to a witness to a will who is a devisee or a legatee, (under the eleventh section of this act,) such estate (and the advancement made to such child or witness,) shall, for all the purposes mentioned in the three preceding sections, be considered as if it had been devised to such child or witness; and he shall accordingly be bound to contribute with the devisees and legatees, as before provided, and shall be entitled to claim contribution from them accordingly.

In case of insolvency of a devisee, other devisees shall contribute, &c.

SEC. 62. When any of the persons who are liable to contribute towards the discharge of such debt, according to the provisions contained in the four preceding sections, shall be insolvent or unable to pay his just proportion thereof, the others shall be severally liable to each other, for the loss occasioned by such insolvency, each one in proportion to the value of the property received by him, from the estate of the deceased; and if any one of the persons so liable shall die, without having paid his proportion of such debt, his executors and administrators shall be liable therefor, in like manner as if it had been his proper debt, to the extent to which he should have been liable if living.

How cases in which contribution is required, may be tried.

SEC. 63. All cases arising under this act, in which devisees or legatees may be required to contribute to make up the share of any child born after the execution of the will, or of a child absent and reported to be dead, or of a witness to the will, or in which contribution is to be made among devisees, legatees and heirs, or any of them, may be heard and determined by bill, filed upon the chancery side of the court of common pleas, allowing an appeal to the district court, as in other cases.

Equitable and final settlement shall be made.

SEC. 64. Nothing in the foregoing sections contained, shall prevent the court, when a sale of lands aliened or unaliened by a devisee or heir, is ordered for the payment of the debts of the estate, to make such order and decree for the sale of any portion of the aliened or unaliened land, as may be equitable between the several parties, and also to make such order of contribution, and such further order and decree as will fully settle and adjust the various rights and liabilities of the parties, which arise by reason of the alienation, or the order of sale, or otherwise.

In case of death of an executor who is a devisee, &c.

Sec. 65. When a last will and testament is admitted to probate, or a will made out of this state is admitted to record as hereinbefore provided, and any lands, tenements or hereditaments, are given or devised by any such will to the executors therein named, or any of them, to be sold or conveyed; or such estate shall be thereby ordered to be sold by such executors, or any of them, and one or more of the executors, so named, die, refuse to act, or neglect to take upon themselves the execution of the will, then all sales and conveyances of said estate, by the executor or executors, who took upon himself or themselves, in this state, the execution of the will, or the survivor or survivors of them, shall be equally valid, as if the residue of the executors had joined in the sale and conveyance; but if none of the executors named in such will, take upon themselves the execution thereof, or if all the executors who take out letters testamentary, die before the sale and conveyance of such estate, or die after the sale and before conveyance is made, the sale or conveyance, or both, shall be made by the administrator with the will annexed.

Death of a trustee, &c.

Sec. 66. When two or more trustees are appointed by will, to execute a trust, and one or more of them die, the survivors may execute the trust, unless the terms of the will express a contrary intention.

When probate judge may appoint a person to fill vacancy, &c.

Sec. 67. If such will has not provided for the contingency of the death, incapacity or refusal of such trustee or trustees to accept or execute the trust, the probate court having probate of said will, may appoint some suitable person or persons to execute the trust, according to the will, who shall give bond with security, as provided in the sixty-ninth section of this act.

Trusts created by will made out of the state.

Sec. 68. Trusts created by a will made out of this state, and relating to lands situate in this state, may, after the will is duly admitted to record in this state, be executed as hereinafter provided.

Trustee named in foreign will, to give bond, &c.

Sec. 69. If a trustee is named in such foreign will, he may execute the trust, upon giving bond to the state of Ohio, in such sum and with such sureties as shall be approved by the probate court of the county in which said lands, or any part thereof, are situate, conditioned to discharge with fidelity the trust reposed in him; Provided, that when the testator in the will naming the trustee, shall have ordered or requested that bonds should not be given by said trustee, the bond shall not be required, unless from a change in the situation or circumstances of the trustee, or for other sufficient cause, the court of probate shall think proper to require it.

Trustee appointed by a foreign court.

Sec. 70. If a trustee has been appointed by a foreign court according to the laws of the foreign jurisdiction, he may execute the trust, upon giving bond as provided in the preceding section, and satisfying the probate court of the county in which such lands, or any part of them, are situate, by an authentica-

ted record of his appointment, that he has been duly appointed trustee to execute the trust.

When court of common pleas may appoint a trustee, &c.

Sec. 71. The court of common pleas of the county where the property affected by the trust is situated, may, when necessary, on application by petition of the party or parties interested, appoint a trustee to carry into effect a trust created by a foreign will; which trustee, before entering upon his trust, shall give bond, with such security, and in such amount, as such court shall direct.

A father may, in his will, appoint a guardian for minor children.

Sec. 72. Every father may, by his last will in writing, appoint a guardian or guardians, for any of his children, whether born at the time of making the will, or afterwards, to continue during the minority of the child, or for a less time; and every such testamentary guardian shall have the same powers, and shall perform the same duties with regard to the person and the estate of the ward, and be subject to removal for the same causes, as a guardian appointed by the court of probate, subject to the provisions of the will.

When such guardian shall give bond, &c.

Sec. 73. Every such testamentary guardian shall give bond, in like manner and with like conditions, as is required of a guardian appointed by the probate court; Provided, that when the testator, in the will appointing the guardian, shall have ordered or requested that such bond should not be given, the bond shall not be required, unless, from a change in the situation or circumstances of the guardian, or for other sufficient cause, the court of probate shall think proper to require it.

Verbal will, reduced to writing.

Sec. 74. A verbal will, made in the last sickness, shall be valid in respect to personal estate, if reduced to writing, and subscribed by two competent disinterested witnesses, within ten days after the speaking of the testamentary words; and if it be proved, by said witnesses, that the testator was of sound mind and memory, and not under any restraint, and called upon some person present, at the time the testamentary words were spoken, to bear testimony to said disposition as his will.

Noncupative will must be admitted to probate within six months.

Sec. 75. No noncupative will shall be admitted to record, unless the same shall be offered for probate, within six months after the death of the testator.

Expenses and fees.

Sec. 76. The expense of proving and recording wills, shall be paid by the party at whose instance the same is done; and the witnesses and officers shall have the like fees for attendance and services, as in other cases.

Definitions, &c.

Sec. 77. Every word in this act, importing the masculine gender, may extend and be applied to females, as well as males; and every word importing the singular number only, may extend and be applied to several persons or things, as well as to one person or thing; and every word importing the plural number only, may extend and be applied to one person or thing, as well as to several persons or things; Provided, that

no female, during her coverture, or life of the father of her child or children, shall, by virtue of this act, be authorized and empowered to appoint a testamentary guardian for any child she may have; and provided further, that a suit instituted under the provisions of this act, to contest a will, shall be brought in the county in which the same was proven, and admitted to probate.

"Wills"—"codicils."

SEC. 78. The term "will," in this act, shall be construed to include codicils as well as wills.

Acts repealed.

SEC. 79. The act entitled an act relating to wills, passed March twenty-third, one thousand eight hundred and forty, the several acts to amend said act, passed March tenth, one thousand eight hundred and forty-three, February twenty-eighth, one thousand eight hundred and forty six, February twenty-second, one thousand eight hundred and forty-eight, March twentieth, one thousand eight hundred and forty-nine, and March seventeenth, one thousand eight hundred and fifty-one, be and the same are hereby repealed; Provided, that all rights that have accrued under the provisions of said laws, shall not be affected by the repeal thereof.

SEC. 80. This act shall go into effect on the first of June next.

JAMES C. JOHNSON,
Speaker of the House of Representatives.

JOEL W. WILSON,
President of the Senate, pro tem.

May 3, 1852.

AN ACT

To regulate the election of State and County officers.

Officers to be elected.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That all elections hereafter to be holden, for Governor, Lieutenant Governor, Secretary of State, Auditor of State, Treasurer of State, Attorney General, Judges of the Supreme Court, Judges of the Court of Common Pleas, Members of the Board of Public Works, Probate Judge, Clerk of the Court of

Common Pleas, Sheriff, Coroner, County Auditor, County Commissioners, County Treasurer, County Recorder, County Surveyor, Prosecuting Attorney, Senators and Representatives to the General Assembly, Judge of the Criminal Court of any county, and Representatives to Congress, shall be held and conducted in the manner prescribed in this act.

Election districts, &c.

SEC. 2. That each township in the several counties, shall compose an election district, unless such township is now, or shall hereafter be divided, by law, into more districts than one; the election to be held at such place in such township or district, as the trustees in each township shall direct; and each ward of any city, that is or may be divided into wards, shall compose an election district; the elections therein to be held at such places as the members of the city council for their respective wards, shall direct; and in all elections holden under this act, they shall serve as judges, and perform the duties required of township trustees in like cases.

Ballot boxes to be provided by sheriff, &c.

SEC. 3. That the sheriffs of the several counties, shall cause to be provided, at the expense of the county, a ballot box for each township and election district, which may be destitute of the same; and cause it to be deposited with the township clerk, whose duty it shall be to preserve the same, for the use of the elections, and carry said ballot box, with a copy of the laws containing this act, to the place or places of holding elections in his township, as often as it may be necessary to meet and vote for officers under this act.

Sheriff shall issue proclamation.

SEC. 4. That it shall be the duty of the sheriff, and he is hereby required, fifteen days at least before the holding of any general election, or ten days before the holding of any special election, to give public notice by proclamation, throughout his county, of the time of holding such elections, and the number of officers at that time to be chosen; one copy of which shall be posted up at each of the places where the elections are appointed to be holden, and inserted in some newspaper published in the county, if any be published therein.

Opening and closing of the polls.

SEC. 5. That at all elections to be holden under this act, the polls shall be opened between the hours of six and ten in the morning, and closed at six in the afternoon, of the same day.

Judges and clerks—their fees.

SEC. 6. That at all elections to be holden under this act, the trustees of the several townships shall serve as judges, and the clerk of the township, and such other person as the judges shall choose, shall serve as clerks of the election, who, together with the judges aforesaid, shall receive two dollars per day, each, as a compensation for their services, to be paid out of the treasury of the proper county.

Substitutes for judges and clerks—their oath.

SEC. 7. That if either of the trustees, common councilmen, or clerk of any township, shall fail to attend at the time and place of holding elections, or if either of them should be a can-

didate, then it shall be the duty of the electors present, to choose, viva voce, suitable persons, (as the case may require,) having the qualifications of electors, to act as judges or clerk, (as the case may be,) of the election; and previous to any votes being received, each judge and clerk, not being a trustee or clerk of the township, shall take an oath or affirmation, which may be administered by a justice of the peace, trustee, or clerk of the township, in the following form: "You, A. B., do solemnly swear, (or affirm, as the case may be,) that you will perform the duties of judge or clerk of this election, (as the case may be,) according to law, and the best of your abilities; and that you will studiously endeavor to prevent fraud, deceit, or abuse, in conducting the same."

Forfeiture for refusal to serve.

SEC. 8. That if any trustee, common councilman, or township clerk, shall refuse to discharge the duties imposed by law, or if those who may be chosen to act in their stead, shall refuse to act, the person so offending shall forfeit and pay a sum not exceeding ten dollars, for the use of the county in which he or they may reside, to be recovered, with costs, before any justice of the peace of the township, in an action of debt.

Vote by single ballot.

SEC. 9. That each elector shall, in full view, deliver to one of the judges of the election, a single ballot or piece of paper, on which shall be written or printed, the names of the persons voted for; with a pertinent designation of the office which he or they may be intended to fill.

Judges to receive vote, &c.

SEC. 10. That the judge to whom any ticket shall be delivered, shall, upon the receipt thereof, pronounce with an audible voice, the name of the elector; and if no objections be made to him, and the judge be satisfied that the elector is a citizen of the United States, and legally entitled, according to the constitution and laws of this state, to vote at the election, he shall immediately put the ticket in the box, without inspecting the names written thereon; and the clerks of the election shall enter the name of the elector, and number, in the poll books, agreeably to the form pointed out in the eighteenth section of this act.

Poll books to be attested, and voters counted.

SEC. 11. That at the close of the polls, the poll books shall be signed by the judges, and attested by the clerks; and the names therein contained shall be counted, and the number set down at the foot of the poll books, in the manner hereinafter provided, in the form of the poll books.

How votes shall be counted.

SEC. 12. That after the poll books are signed, in the manner hereinafter contained, in the form of the poll books, the ballot boxes shall be opened, and the ballots or tickets therein contained, shall be taken out, one at a time, by one of the judges, who shall read distinctly, while the ticket remains in his hand, the name or names therein contained, and then deliver it to the second judge, who shall examine the same, and pass it to the third judge, who shall string it on a thread, and care-

fully preserve the same; the same method shall be observed in respect to each of the tickets taken out of the ballot box, until the number taken out of the ballot box is equal to the number of names in the poll books.

Duty of clerks.

SEC. 13. That the clerks shall enter, in separate columns, under the names of the persons voted for, as hereinafter provided, in the form of the poll books, all the votes so as aforesaid read by the judges.

Fraudulent votes.

SEC. 14. That whenever two or more ballots are found folded or rolled together, it shall be conclusive evidence of their being fraudulent.

Same subject.

SEC. 15. That if a ballot should be found to contain a greater number of names, for any one office, than the number of persons required to fill that office, it shall be considered fraudulent as to the whole of the names designated to fill such office, but no further.

Same.

SEC. 16. That a ballot shall not be considered fraudulent for containing a less number of names than are authorized to be inserted.

Enumeration of votes.

SEC. 17. That after the examination of the ballots shall be completed, the number of votes for each person shall be enumerated, under the inspection of the judges, and set down as hereinafter provided, in the form of the poll books, and be publicly proclaimed to the people present.

Form of poll books.

SEC. 18. That the following shall be the form of the poll books to be kept by the judges and clerks of elections held under this act:

POLL BOOK of the Election held in the township of ———, in the county of ———, on the —— day of ———, in the year of our Lord, one thousand eight hundred and ——. A. B., C. D. and E. F., Judges, and J. K. and L. M., Clerks of said election, were severally sworn, as the law directs, previous to their entering on the duties of their respective offices.

Number and Names of Electors.		Number and Names of Electors.	
No. 1,	A. B.	No. 3,	E. F.
No. 2,	C. D.	No. 4,	G. H.

It is hereby certified that the number of electors at this election amounts to ——.

Attest:
J. K.,
L. M.,
Clerks.

A. B.,
C. D.,
E. F.,
Judges of Election.

NAMES OF PERSONS VOTED FOR, AND FOR WHAT OFFICE, CONTAINING THE NUMBER OF VOTES GIVEN FOR EACH CANDIDATE.		
Governor.	A.	No. of votes.
	B.	No. of votes.
Lieutenant Governor.	C.	No. of votes.
	D.	No. of votes.
Secretary of State.	E.	No. of votes.
	F.	No. of votes.
Auditor of State.	G.	No. of votes.
	H.	No. of votes.
Treasurer of State.	I.	No. of votes.
	J.	No. of votes.
Attorney General.	K.	No. of votes.
	L.	No. of votes.
Judge of the Supreme Court.	M.	No. of votes.
	N.	No. of votes.
Board of Public Works.	O.	No. of votes.
	P.	No. of votes.
Representatives in Congress.	Q.	No. of votes.
	R.	No. of votes.
Representatives in the General Assembly.	Senators. S.	No. of votes.
	Senators. T.	No. of votes.
	Representatives. U.	No. of votes.
	Representatives. V.	No. of votes.
Judge of the Court of Common Pleas.	W.	No. of votes.
	X.	No. of votes.
Probate Judge.	Y.	No. of votes.
	Z.	No. of votes.
Clerk of the Court of Common Pleas.	A.	No. of votes.
	B.	No. of votes.
Sheriff.	C.	No. of votes.
	D.	No. of votes.
Coroner.	E.	No. of votes.
	F.	No. of votes.
County Auditor.	G.	No. of votes.
	H.	No. of votes.
County Commissioner.	I.	No. of votes.
	J.	No. of votes.
County Treasurer.	K.	No. of votes.
	L.	No. of votes.
County Recorder.	M.	No. of votes.
	N.	No. of votes.
County Surveyor.	O.	No. of votes.
	P.	No. of votes.
Prosecuting Attorney.	Q.	No. of votes.
	R.	No. of votes.
Judge of County, or other Courts created.	S.	No. of votes.
	T.	No. of votes.

We do hereby certify, that A. B. had ——— votes for Governor; C. D. had ——— votes for Governor; E. F. had ——— votes for Lieutenant Governor; G. H. had ——— votes for Secretary of State; I. K. had ——— votes, &c., &c.

Attest: J. K.,
L. M.,
Clerks.

A. B.,
C. D.,
E. F.,
Judges of Election.

Disposition of poll books, after canvassing.

SEC. 19. That after canvassing the votes in the manner aforesaid, the judges, before they disperse, shall put under cover one of the poll books, seal the same, and direct it to the clerk of the court of common pleas of the county where the return is to be made; and the poll book thus sealed and directed, shall be conveyed by one of the judges, to be determined by lot, if they cannot agree otherwise, to the clerk of the court of common pleas of the county, at his office, within two days from the day of the election; and the other poll book, where the same is not otherwise disposed of by this act, shall be deposited with the township clerk, or clerk of the election district, (as the case may be,) within three days from the day of the election, there to remain for the use of the persons who may choose to inspect the same.

Duty of clerk of common pleas, as to opening returns, &c.

SEC. 20. That on the sixth day after the election, (or sooner, in case all the returns shall be made,) the said clerk of the court of common pleas, taking to his assistance two justices of the peace of the proper county, shall proceed to open the several returns which shall have been made to his office, and to make abstracts of the votes in the following manner: The abstracts of votes for Governor, Lieutenant Governor, Secretary of State, Auditor of State, Treasurer of State, and Attorney General, shall be on one sheet; and being certified and signed by the justices and clerks, shall be deposited in the clerk's office, and a copy thereof, certified under the official seal of said clerk, shall be endorsed and directed to the president of the senate, and forwarded immediately to the seat of government, by mail; and the clerk aforesaid shall make out another certified copy of the abstract of votes for the Governor, Lieutenant Governor, Secretary of State, Auditor of State, Treasurer of State, and Attorney General, as aforesaid, directed to the President of the Senate, and deliver the same to a member of the General Assembly, to the end that the same may be conveyed to the President of the Senate, at the seat of government; and said clerk shall respectively endorse on the envelope, on outside of each duplicate, "Certificate of the votes for Governor, Lieutenant Governor, Secretary of State, Auditor of State, Treasurer of State, and Attorney General," (either or all, as the case may be,) and the name of the county in which said votes are given.

President of Senate to open and publish returns, &c.

SEC. 21. That the president of the Senate shall, during the first week of the session of the General Assembly, open and publish the abstracts of votes by him received, in conformity with the provisions of the third section of the third article of the constitution of this State; and the abstracts of votes for Governor, Lieutenant Governor, Secretary of State, Auditor of State, Treasurer of State, Attorney General, Judges of the supreme court, Judges of the court of common pleas, members of the Board of Public Works, Probate Judges, Clerks of the courts of

Further duties of clerk and justices.

common pleas, Sheriffs, Coroners, County Auditors, County Treasurers, County Commissioners, County Recorders, County Surveyors, Prosecuting Attorneys, Senators and Representatives to the General Assembly, Judge of such county court as are now, or may hereafter be established in any counties of this State, and Representatives to Congress, shall be made on one sheet; and being certified and signed, (in the same manner as in case of abstracts of votes for the officers named in the twentieth section of this act,) shall be deposited in the said clerk's office; and a copy thereof, certified as aforesaid, shall be immediately enclosed, endorsed, and forwarded to the Secretary of State. In making the abstracts of votes aforesaid, the justices and clerk shall not decide on the validity of the returns aforesaid, but shall be governed by the number of votes stated in the poll books; but no paper shall be received as a poll book of any township or other election district, unless delivered at the clerk's office by one of the judges of the election held in such township, or election district.

Election of Congressmen

SEC. 22. That on the second Tuesday of October, eighteen hundred and fifty-two, and at every period of two years thereafter, the electors of each congressional district that now is or which shall hereafter be laid off and established, shall vote for a suitable person or persons to represent this State in the Congress of the United States, for the term of two years, to commence on the fourth day of March next thereafter.

Further duties of clerks of common pleas.

SEC. 23. That the clerk of the court of common pleas in each county, to whose office a return of votes shall be made under the provisions of this act, shall, in addition to the copy required to be forwarded to the Secretary of State, by the twenty-first section of this act, make out, from the returns in his office, a separate abstract of votes for Governor, Lieutenant Governor, Secretary of State, Auditor of State, Treasurer of State, Attorney General, members of the Board of Public Works, Judges of the Supreme Court, and Representatives to Congress, which he shall seal and direct to the Secretary of State, and endorse on the outside or cover thereof, the following words: "Abstract of votes for (the officers in this section named, naming such,) returned to the clerk's office of, (inserting the name of the county;)" and the clerk shall sign his name thereto; and it shall be the duty of the clerk to forward such abstract to the Secretary of State, within twenty days after such election.

Governor and Secretary of State to open returns, &c., when legislature not in session.

SEC. 24. That within ten days after the first day of December, next after such election, the Governor and Secretary of State, in the office of the Secretary of State, in the presence of the Auditor of State and Attorney General, shall open the returns made to the Secretary of State, for members of the Board of Public Works, Judges of the Supreme Court, and Representatives to Congress; and if it shall appear that returns

have been received from all the counties, agreeable to the provisions of this act, the Governor and Secretary of State shall forthwith proceed to ascertain the number of votes given to the different persons for the office of Board of Public Works, for the office of Judge of the Supreme Court, and for Representatives to Congress in each congressional district.

When returns to Secretary's office shall be used.

SEC. 25. That if such return shall not have been received from all the counties as aforesaid, and abstracts shall have been received by the Secretary of State, from such delinquent counties, agreeably to the provisions of the twenty-first section of this act, the Governor and Secretary of State shall be governed, so far as it relates to such delinquent counties, by the last mentioned abstracts; and the persons having the highest number of votes for the respective offices named in the twenty-fourth section of this act, shall be considered duly elected.

Tie votes for Congressmen, to be decided by lot.

SEC. 26. That if it shall appear, from the returns and abstracts aforesaid, that any two or more persons, in any of the congressional districts, have the highest and an equal number of votes for Representative to Congress, the Governor and Secretary of State shall decide by lot which of said persons shall be duly elected; and the Governor shall give to each person so duly elected Representative to Congress, a certificate of his election; which certificate shall be signed by the Governor, and sealed with the Great Seal of the State, and countersigned by the Secretary of State.

Governor to certify.

By whom returns of votes for State officers shall be opened and counted, &c.

SEC. 27. That if the General Assembly shall not be in session on the first Monday in January next after an election for all or any part of the executive officers of this State, the Governor and Secretary of State, within five days thereafter, in the office of the Secretary of State, in the presence of at least two of the Judges of the supreme court, shall open the returns of abstracts made to the Secretary of State for said offices, agreeably to the provisions of the twenty-third section of this act; that if such returns shall not have been received from all the counties, recourse shall be had, for such delinquent counties, to the returns of the abstracts made agreeably to the provisions of the twenty-first section of this act; and shall forthwith proceed to ascertain the number of votes given to the different persons for the several offices of Governor, Lieutenant Governor, Secretary of State, Auditor of State, Treasurer of State, and Attorney General, as the case may be; and the persons having the highest number of votes for any of said offices, shall be considered duly elected, and by the Governor so declared; if it shall appear from the returns and abstracts aforesaid, that any two or more persons, for any one of said offices, have the highest and an equal number of votes, the Governor shall, by message, communicate such to the General Assembly, at its first session thereafter.

Vacancies in Representative to Congress and General Assembly, how filled.

SEC. 28. That whenever a vacancy shall happen in the office of Representative to Congress, or Senator or Representative to the General Assembly, in any county or counties in this State, entitled by law to such Senator or Representative, the Governor of the State for the time being, shall, upon satisfactory information thereof, issue a writ or writs of election, to the sheriff or sheriffs of said county or counties, entitled by law to such Senator or Representative, as aforesaid, directing him to hold a special election within such county or counties, on a day specified in such writ or writs, for the purpose of filling such vacancy; and the sheriff shall proceed to give notice of the time and place of holding such election, as in other cases; and such elections shall be held and conducted, and the returns thereof made to the clerk's office of the court of common pleas of the proper county, in the same manner, and within the same time specified in this act.

How returns shall be made to Secretary of State.

SEC. 29. That in all elections for members of Congress, to fill any vacancy, under the two preceding sections of this act, the said sheriffs shall, within six days after such election, attend at the seat of justice in their proper counties, and receive from the clerk of the court of common pleas, an abstract of the votes given in such counties; and within twenty days from the day of election, shall transmit the same to the office of the Secretary of State, and take his receipt therefor, under the penalty of five hundred dollars, to be recovered before any court having competent jurisdiction thereof, in an action of debt, in the name of the county; and it shall be the duty of the county treasurer for the time being, to sue for, and recover the penalty aforesaid, for the use of the county.

Votes to be canvassed by Secretary of State, &c.

SEC. 30. That the Secretary of State, on the twenty-first day from the holding of such special election, or sooner, if all the returns shall be received, in the presence of the Governor for the time being, (or in his absence, in the presence of the Auditor and Treasurer of State, who are hereby required forthwith to attend at the office of the Secretary of State, on notice given by said Secretary,) and such of the aforesaid sheriffs as may think proper to attend, shall open the abstracts and canvass the votes; and the persons having the greatest number of votes, shall be declared duly elected; and the Governor for the time being, shall forthwith transmit to them a certificate of of their election, as aforesaid.

Who shall act in case of vacancy or absence of clerk of common pleas.

SEC. 31. That whenever it shall so happen that the clerk of any court of common pleas shall die, be absent, or from any casualty be prevented from opening the returns of votes at any elections, it shall be lawful for his deputy to discharge the duties required of such clerk, by law; or if the office of clerk is not represented by deputy, and such clerk being absent, or in anywise disqualified to serve, as aforesaid, it shall be the special duty of the probate judge of the county, in which such

election was held, to attend immediately at the clerk's office, taking to his assistance two justices of the peace, of the proper county, shall then proceed to open all the returns of elections for such county, which shall have been made to such clerk's office, and perform the same duties that are required of the clerk of the court in such cases, under the provisions of this act.

Tie votes determined by lot.

SEC. 32. That if any number of persons, greater than the number of the county offices directed to be filled, shall be equal in votes, the clerk and justices, or judge and justices aforesaid, (as the case may be,) shall determine by lot, which of the persons shall be duly elected.

Error in poll books shall not vitiate election.

SEC. 33. That no election shall be set aside for want of form in the poll books, provided they contain the substance.

In case of two or more counties in one district:

SEC. 34. That when two or more counties are joined in a senatorial, representative or judicial district, the clerks of such county or counties, of any such districts, that have a smaller population, shall make out fair abstracts of the votes given within any such county, under the seal of the court of common pleas, and attested by the clerk, and transmit the same by a special messenger to the clerk of the court of common pleas of that county of any such district, having the largest population, within ten days after the day of election; who shall receive and open the same, in the same manner as returns of election districts, and incorporate the returns from such county or counties, having such smaller population, with the returns of election districts of the county having the largest population, and make out and deliver to the persons elected, certificates of their election.

Vacancies in office of sheriff or coroner.

SEC. 35. That when any sheriff or coroner shall die, or by any other means be incapable to serve as sheriff, or coroner, it shall be the duty of the commissioners of the county where such vacancy may happen, if they, or a majority of them, shall determine that the public interest and the welfare of the county require it, to appoint a day, without delay, on which the qualified electors of said county shall meet in their respective townships or election districts, and proceed to the election of a sheriff or coroner, (as the case may be,) in the same manner as is directed in the case of the election of a sheriff or coroner; and the returns of such election shall be made to the clerk, and shall be opened and canvassed, in the same manner provided in this act, for elections at the general election.

Proclamation of clerk and justices.

SEC. 36. That the clerk and justices, or judge and justices, (as the case may be,) shall declare the person having the highest number of votes for probate judge, clerk of the court of common pleas, sheriff, coroner, county auditor, county commissioners, county treasurer, county recorder, county surveyor, judge of the criminal court of any county, and prosecuting attorney; and the person or persons having the highest

number of votes for senators or representatives of the General Assembly, duly elected; subject to an appeal (to the court of common pleas, of the proper county, in case of the contested election of the probate judge, clerk of the court of common pleas, sheriff, coroner, county auditor, county commissioners, county treasurer, county recorder, county surveyor, or prosecuting attorney; and to that branch of the General Assembly, to which any person may be returned,) when an election is contested; Provided, notice of such appeal, to the said court, be entered with the clerk thereof, within twenty days from the day of election. Contests.

Sec. 37. That the clerk shall make out for the probate judge, clerk of the court of common pleas, sheriff, coroner, county auditor, county commissioners, county treasurer, county surveyor, judge of the county court, (if such there be,) and prosecuting attorney, and each of the senators and representatives to the general assembly, who have the highest number of votes given, a certificate of his election, and shall deliver the same to the person entitled thereto, upon demand, without fee; and he shall also make out for any candidate or elector of his county, an abstract of votes as aforesaid, upon being paid one dollar therefor. Clerk to issue certificate of election.

Sec. 38. That if any candidate or elector shall, directly or indirectly, give or promise any meat, drink, or any other reward, with the intention to procure his election, or the election of any candidate, he shall forfeit and pay for every such offence, a sum not exceeding five hundred dollars; and if a candidate, be rendered incapable, for two years, to serve in the office for which he was a candidate. Penalty for corrupting electors.

Sec. 39. That if any candidate or elector of the proper county or senatorial district, chooses to contest the validity of an election, or the right of any person proclaimed duly elected to his seat in the Senate or House of Representatives, such person shall give notice thereof in writing, to the person whose election he intends to contest, or leave a written notice thereof at the house where such person last resided, within twenty days after the election, expressing the points on which the same will be contested, and the names of two justices of the peace who will officiate at the taking of the depositions, and when and where they will attend to take the same; and such notice shall be served at least ten days before the day pointed out therein for the taking of the depositions; Provided, that the time fixed upon for taking such depositions shall not exceed thirty days from the day of election. Contests of Senators or representatives.

Sec. 40. That the said justices, or either of them, shall have power, and are hereby authorized and required, to issue subpœnas to all persons whose testimony may be required by either of the parties; and the said two justices when met, shall hear and certify under seal, all testimony relative to such Power and duty of justices in contests.

contested election, to the presiding officer of the branch of the general assembly where the person whose seat is contested, may be returned so serve at its next session.

Electors only may contest.

SEC. 41. That no person shall contest the election of any senator or representative, unless he is an elector of that county or district from which the person is returned to serve. No testimony shall be received by the justices on the part of the person contesting the election, which does not relate to the point specified in the notice; a copy of which notice shall be delivered to the said justices, and by them transmitted to the presiding officer of that branch of the general assembly where the contest is to be decided, with the other documents.

No irrelevant testimony.

Contests of county officers.

SEC. 42. That the method to be pursued in contesting the election of any person declared duly elected probate judge, clerk of the court of common pleas, sheriff, coroner, county auditor, county commissioners, county treasurer, county recorder, county surveyor, or prosecuting attorney, shall be at the instance of a candidate or elector of the proper county, and shall, in every respect, be similar to the method directed as aforesaid, to be pursued in contesting the election of senators and representatives to the general assembly, save only that the testimony taken as aforesaid, and all matters relative to such contest, shall be sent to the court of common pleas of the proper county, on or before the second day of the term next ensuing the thirty days allowed, in which to take depositions, by the preceding sections; and the said court of common pleas, at their said first term after thirty days shall have expired, shall hear and determine the contest.

Contests of state officers and judges.

SEC. 43. That any candidate or elector being desirous of contesting the election of any person declared elected governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, judge of the supreme court, member of the board of public works, judge of the court of common pleas, or judge of the criminal court of any county, shall, between the sixth and tenth days after the commencement of the first general assembly after the day of election, file a notice of such intention with the clerk of the senate, specifying the particular points on which he means to rely; Provided, that no person shall contest the election of common pleas judge, unless he be an elector of the proper judicial district.

Trial by the Senate.

SEC. 44. That upon any such notice being filed as aforesaid, the senate shall, by resolution, determine on what day or days they will meet in their chamber, in order to hear and determine any such contest; and thereupon, a certified copy of the notice filed by any contestor, shall be served upon the officer whose election is sought to be contested, or by leaving a copy thereof at his last or usual place of residence, by such person as shall by resolution be appointed, with a notice when he

is required to attend in the senate chamber to answer the contest.

Testimony may be written or oral.

SEC. 45. That on the trial of any contested election for any of the offices in the forty-third section of this act named, the parties of such contest may introduce either written or oral testimony, but no depositions shall be read on such trial, unless the opposite party shall have had reasonable notice of the time and place of taking the same.

Procedure on trial.

SEC. 46. That in conducting any contested election for the offices in the forty-third section of this act named, the following rules shall be observed, to wit. 1st On the day and at the hour appointed for that purpose, the senate, with its proper officers, at their usual place of meeting. 2d. When the president of the senate is not the acting governor, he shall preside; but when he is the acting governor, or contestor, the senate shall elect a president pro tem. 3d. The parties to the contest shall then be called by the clerk of the senate, and if they answer, their appearance shall be recorded. 4th. The contestor shall first introduce his testimony, and then the officer elect shall introduce his; and after the testimony is gone through on both sides, the contestor may, by himself or his counsel, open the contest; and the officer elect may then proceed, by himself or counsel, to make his defence, and the contestor be heard in reply. 5th. After the arguments are thus gone through, by the parties, any member of the senate shall be at liberty to offer his reasons for the vote he intends to give. 7th. [6th.] The clerk of the senate shall keep a regular journal of the proceedings. 8th. [7th.] The manner of taking the decision shall be by an alphabetical call of the members, and a majority of all the votes given, shall decide; the president of the senate, when acting as governor, the person holding the seat, or contestor, not being permitted to vote, either upon the final decision, or upon any preliminary question that has any reference thereto.

Fees for returning poll books.

SEC. 47. That the judge who carries the poll book to the clerk of the court of common pleas of the proper county, shall be entitled to receive for the same, ten cents per mile, from the place of election to the seat of justice, to be paid out of the county treasury.

Penalty for neglect of duty.

SEC. 48. That if any officer charged with any duties under this act, shall refuse or neglect to perform the duties required of him by this act, according to the true interest [intent] and meaning thereof, he shall, on conviction therof, before any court having cognizance to that amount, be fined, in any sum, at the discretion of the court, not exceeding two hundred dollars.

How fines and penalties may be recovered.

SEC. 49. That all fines and penalties imposed by this act, and not therein otherwise provided for, shall be recovered, with costs of suit, in an action of debt, for the use of the county.

When returns are not received in time, duty of Secretary of State.

SEC. 50. That in all cases where the returns from different counties, composing congressional districts, shall not have been made, or may not be made within the time required by law, or after the certificate of election shall have been forwarded to the person having without those returns, the highest number of votes, the Secretary of State, in the presence of the Governor, or, in his absence, in the presence of the Auditor and Treasurer of State, when said returns shall be made, shall open the same, and the Governor shall certify the same to the Speaker of the House of Representatives of the United States.

Fees of sheriffs.

SEC. 51. That the sheriffs of the different counties shall each receive for their services, performed under this act, the following fees, to wit: For advertising the election, the sum of fifty cents for each township within his county; for delivering the abstracts of votes to the Secretary of State, at his office, the sum of three dollars for every twenty-five miles traveled to and from their respective seats of justice, on the nearest usual route to the seat of government; which fees shall be allowed by the Auditor, on the certificate of the Secretary of State, and paid by the Treasurer of State.

Fees of Clerks.

SEC. 52. That every such clerk of the court, or probate judge, (as the case may be,) shall receive for his services performed under this act, the following fees, to wit: For making out abstracts, for every hundred words, ten cents; for each certificate with the seal of the court attached to abstract, fifty cents; which fees shall be allowed by the county auditor, on the certificate of such clerk or probate judge, (as the case may be,) and paid by the county treasurer.

When canvassers may adjourn, &c.

SEC. 53. That it shall be lawful for the judges of any election which may be held under this act, when, in the opinion of said judges, it is impracticable to count out and certify all the votes which have been given, on the first day, to place the box, containing the ballots, well secured by a lock, and carefully sealed up, under the charge of one of said judges, and to postpone further counting thereof until the next day, when the counting shall be resumed and continued until completed, when the same shall be certified in the manner provided for in this act.

Acts repealed.

SEC. 54. That the "act to regulate elections," passed the eighteenth day of February, one thousand eight hundred and thirty-one, and the act amendatory of the act entitled "an act to regulate elections," passed on the thirteenth day of March, one thousand eight hundred and thirty-seven, and "an act prescribing the manner of contesting the elections for Governor," passed December twenty-third, one thousand eight hundred and seven, be and the same are hereby repealed; Provided,

that said repeal shall not in any way or manner affect any right which may have accrued under any of said acts.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
JOEL W. WILSON,
President of the Senate, pro tem.

May 3, 1852.

AN ACT

Making appropriations in part for the year 1852.

Sums appropriated.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the following sums be, and the same are hereby appropriated, out of any money in the Treasury, to be paid for the year 1852, viz:

For General Assembly.

For the payment of the members of the General Assembly, their Clerks, Sergeants-at-Arms, Door-keepers, and Messengers, the sum of twenty thousand dollars.

Printing.

For the payment of such Printing as shall be ordered by either House of the General Assembly, seven thousand dollars.

Deficit of Printing.

For the payment of deficit in the appropriation of last year, on account of Printing, thirteen thousand two hundred forty dollars and fifteen cents.

Auditor's contingent fund.

For the payment of deficit in the contingent fund of the Auditor of State, one thousand six hundred seventeen dollars and sixty-one cents.

For the contingent fund of the Auditor of State, five hundred dollars.

Secretary's contingent fund.

For the contingent expenses of the Secretary of State, one thousand dollars.

For the payment of deficit in the contingent fund of the said Secretary of State, eighty-six dollars and forty-five cents.

Stationery.

For Stationery for the State, to be furnished in accordance with the contract made, and to pay deficit on last year's appropriation, twelve thousand dollars.

Refunding taxes. For the payment of taxes erroneously or illegally charged and refunded, four thousand dollars.

Mileage of treasurers. For mileage of County Treasurers, one thousand five hundred dollars.

New State House. For prosecuting the work on the new State House, fifteen thousand dollars, out of which shall be paid the Warden of the Penitentiary the amount due that Institution the first day of January, 1852, under the provisions of the resolution passed March 3d, 1850.

Costs and transportation of convicts. For the payment of the costs of prosecuting and transporting convicts to the Penitentiary, fifteen thousand dollars.

JAMES C. JOHNSON,
Speaker of the House of Representatives.
W. MEDILL,
President of the Senate.

January 19, 1852.

AN ACT

To make a temporary appropriation for the New State House, for the Ohio Lunatic, the Deaf and Dumb, and the Asylum for the Blind, and for repairing and furnishing rooms for the General Assembly.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the further sum of fifteen thousand dollars be, and the same is hereby appropriated out of any unappropriated moneys in the treasury, for the purpose of paying for materials and hands employed upon the State buildings. Also the further sum of five hundred dollars, to pay expenses incurred in furniture and repairing rooms for the sittings of this General Assembly. Also, for the current expenses of the Ohio Lunatic Asylum, in part for the quarter ending on the first day of April, one thousand eight hundred and fifty-two, the sum of five thousand dollars; for the current expenses of the Asylum for the Deaf and Dumb, for the quarter ending April first, one thousand eight hundred and fifty-two, the sum of four thousand dollars; for the current expenses of the Asylum for the Blind,

for the quarter ending April first, one thousand eight hundred and fifty-two, the sum of two thousand dollars.

JAMES C. JOHNSON,
Speaker of the House of Representatives.

WILLIAM MEDILL,
President of the Senate.

March 16, 1852.

AN ACT

Making Appropriations for the year 1852.

Sums appropriated.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the following sums be, and they are hereby appropriated, out of any money in the treasury not otherwise specially appropriated, to be paid for the year one thousand eight hundred and fifty-two, viz:

General Assembly.

For the payment of the Members of the General Assembly, their Clerks and Assistant Clerks, Sergeant at arms, Doorkeepers and Messenger boys, the additional sum of seventy thousand dollars.

State officers, &c.

For the payment of the salaries of the Governor, Lieutenant Governor, Auditor, Treasurer and Secretary of State, the Attorney General, members of the Board of Public Works, Librarian, and the Warden, Physician and Directors of the Ohio Penitentiary, the sum of fifteen thousand dollars.

Clerks in state offices.

For paying the Secretary of the Governor, Clerks in the Auditor's office, two Clerks in the Treasurer's office, and Clerk in the Secretary of State's office, including the additional compensation allowed by the appropriation act of one thousand eight hundred and fifty, which sum shall hereafter be allowed to said clerks annually, twelve thousand dollars.

Governor's contingent fund.

For contingent fund of the Governor, four thousand dollars.

Auditor's Contigent fund.

For contingent fund of the Auditor of State, three thousand dollars.

Secetary's Contigent fund.

For contingent fund of the Secretary of State, one thousand two hundred dollars.

Judges. For payment of the salaries of the Judges of the Supreme Court, Judges of the Court of Common Pleas, Judges of the Superior and Commercial Court of Cincinnati, the Superior Court of Cleveland, Judge of the Criminal Court of Hamilton county, and Reporter of the Supreme Court, fifty-six thousand dollars.

Officers of Lunatic Asylum. For salaries of the Superintendent, Physician, Steward and Matron of the Lunatic Asylum, three thousand two hundred dollars.

Lunatic Asylum. For provisions, household expenses, clothing, servants, fuel, stationery, labor, medicines, and contingent expenses, for the Lunatic Asylum, the sum of twenty-two thousand dollars.

Officers of Deaf and Dumb Asylum. For salaries of the Superintendent and Steward of the Asylum for the Deaf and Dumb, one thousand five hundred dollars.

For salaries of the Trustees, Matron and assistants of the Asylum for the Deaf and Dumb, four thousand five hundred dollars.

Deaf and Dumb Asylum. For provisions, household expenses, clothing, fuel, labor, servants, and contingent expenses, of the Asylum for the Deaf and Dumb, three thousand five hundred dollars.

Officers of Blind Asylum. For the salaries of the Superintendent and Steward of the Asylum for the Blind, one thousand five hundred dollars.

For salaries of the Teachers, Matron, Assistants and Artisans of the Asylum for the Blind, three thousand five hundred dollars.

Blind Asylum. For clothing, provisions, furniture, labor, servants, stationery, materials for workshop, contingencies, for Asylum for the Blind, three thousand five hundred dollars.

State Library. For State Library, one thousand dollars.

Stationery. For Stationery for the state, the additional sum of fifteen thousand dollars.

Printing. For printing the bills, reports, journals, documents, and other matter ordered by the Senate and House of Representatives, including Binding and Covering, the additional sum of twenty thousand dollars.

Printing and Binding. For Printing, Covering and Binding the Laws and Ohio Reports, four thousand dollars.

Distributing laws, &c. For Distribution of the laws, journals and documents, the sum of one thousand dollars.

Adjutant General. For compensation and expenses of the Adjutant General, the sum of three hundred dollars, to be paid on the certificate of the Governor.

Quartermaster General. For compensation and expenses of the Quartermaster General, the sum of three hundred dollars, to be paid on the certificate of the Governor.

Preservation of public arms. For taking care of the Public Arms, under the direction of the Quartermaster General, to be paid upon the certificate of the Governor, a sum not exceeding one thousand dollars.

For payment of County Treasurers' Mileage, one thousand six hundred dollars. Treasurer's mileage.

For re-payment of Taxes erroneously collected, the sum of four thousand dollars. Refunding taxes.

For expenses of special Elections, one hundred and fifty dollars. Special elections.

For payment of Wolf scalp certificates, five hundred dollars. Wolf scalps.

For the purchase of Fuel for the Legislature and public offices, one thousand dollars. Fuel.

For transportation of Convicts to the Penitentiary, and costs of prosecution, and for re-paying any amount advanced by the treasurer, over former appropriation, the sum of twenty-two thousand dollars. Transportation, &c., of convicts.

For salaries of Deputy Warden and the Clerk of the Penitentiary, to be paid out of the Penitentiary fund; to the Deputy Warden, seven hundred, and to the Clerk, seven hundred dollars. Officers of Penitentiary.

For Contingent fund of the Treasurer of State, one thousand dollars. Treasurer's contingent fund.

For Contingent fund of the Attorney General, two hundred dollars. Attorney General's contingent fund.

For the salaries of the Commissioners appointed to revise, reform, simplify and abridge the practice, pleadings, forms and proceedings of the courts of record of this State, and for their clerk, and contingent expenses, five thousand dollars. Commissioners to revise practice.

To Ransom A. Gillett, chairman of the joint select committee of the Senate and House of Representatives, on the reception of the guests of the State, for money expended for the State, the sum of two hundred and ninety-two dollars and sixty-six cents. Kossuth committee.

For expenses of committee of investigation in each house, in taking testimony, service of process, and pay for the attendance of witnesses, seventy-five dollars. Expenses of legislative committee.

To J. Boswell and Son, for work done, and for desks furnished for the Supreme Court, at its March term, one thousand eight hundred and fifty-two, under direction of said court, forty-one dollars and nine cents. J. Boswell and Son.

To Henry Fraas, for seventy-three days labor at the Old State House, seventy-three dollars. Henry Fraas.

To Henry Mack, forty-six dollars, for forty-six days labor on the old State House. Henry Mack.

To Thos. Bonsall, for assisting the State Librarian, and for books sold to the Governor for the library, the sum of one hundred and forty-three dollars and fifty cents. Thos. Bonsall.

To J. H. Riley and Company, for stationery furnished to the Court in Bank, at its December term, A. D. 1851, the sum of one hundred and twelve dollars. J. H. Riley and Company.

Samuel Williams. To Samuel Williams, the sum of seven hundred and fifty-eight dollars and seventy cents, being the amount in full due to said Samuel Williams, for recording five volumes of original field notes of survey of public lands, in said State, being volumes seven and eight of subdivisions of two mile blocks, between the old seven ranges and the Scioto river, and south of the United States Military tract, comprising eight hundred and fifty-one pages, also, volumes two, three and four, of subdivisions into sections, in said military tract, comprising eleven hundred and eighty-one pages, being a total of twenty hundred and thirty-two pages, at thirty-five cents per page, making seven hundred and eleven dollars and twenty cents; also, for making separate map indices of each township, at nine dollars and fifty cents per volume, making forty-seven dollars and fifty cents, in all seven hundred and fifty-eight dollars and seventy cents, the said work having been done under a contract with the Secretary of State, the aforesaid volume seven, having been erroneously included in a resolution relative to the claim of Samuel Williams, passed by the General Assembly, January twenty-second, one thousand eight hundred and fifty-one.

H. Mason. To. H. Mason, for articles of tin ware, furnished for the use of the General Assembly, January fifth, Anno Domini one thousand eight hundred and fifty-two, the sum of two dollars and fifty cents.

J. G. Hallings. To J. G. Hallings, the sum of six dollars and seventy-five cents, for varnishing desks in the House of Representatives.

J. D. Osborn & Company. To J. D. Osborn and Company, the sum of two hundred and sixty-two dollars and thirty-five cents, for carpets and mats furnished for the new hall of the House of Representatives, furnished February third, one thousand eight hundred and fifty-two.

I. G. Dryer and Company. To I. G. Dryer and Company, the sum of eighty-one dollars, for chairs, tables, stands and desks, furnished for the Hall of Representatives, January first, one thousand eight hundred and fifty-two.

P. Bain and Company. To P. Bain and Company, the sum of nine dollars and twenty-six cents, for articles furnished to repair State House, December, one thousand eight hundred and fifty-one.

A. P. Stone. To A. P. Stone, the sum of two hundred and forty dollars, for carpets for State House, furnished December nineteenth, and twenty-seventh, one thousand eight hundred and fifty-one.

I. H. Roston. To I. H. Roston, the sum of two dollars and seventy-five cents, for Knees furnished for State House, in eighteen hundred and fifty-one.

S. Medary. To S. Medary, the sum of seventy-five dollars, for binding done for State Library, in October and December, eighteen hundred and fifty-one.

To Dwight Stone and Company, the sum of twenty-one dollars and forty-six cents, for articles furnished to repair State House, in December, eighteen hundred and fifty-one. Dwight Stone and Company.

To John Stone and Company, the sum of seven dollars and eighty-two cents, for sundry articles furnished to repair the State house, in November and December, eighteen hundred and fifty-one. John Stone and Company.

To Bazil Riddle, the sum of one hundred dollars, for fifty days attendance on the Supreme Court in Bank, for December term, eighteen hundred and fifty-one. Basil Riddle.

SEC. 2. For the prosecution of the work upon the new State House, and to defray the necessary expenses of the profitable employment of convict labor thereon, as provided by law, the additional sum of seventy-five thousand dollars. New State House.

SEC. 3. For the payment of the following claims, presented, proven, and ordered to be paid, viz:

To Samuel Medary, thirteen dollars and fifty cents, for a record furnished for the Supreme Court. S. Medary.

To F. Henman, jr., seven dollars, for labor on the State house. F. Henman, jr.

To J. Westwater and Son, five dollars and fifty cents, for sundry articles furnished for the Senate. J. Westwater and Son.

For the payment of the expenses of the contest between Hon. C. C. Covey and Hon. Edwin Corner, for a seat in the Senate, the sum of sixty dollars. Senate contested election.

SEC. 4. For the purpose of liquidating the deficit in the general revenue, the Auditor of State is hereby authorized and directed to transfer to said fund, from the surplus revenue, the sum of two hundred and fifty thousand dollars. To remedy deficit.

SEC. 5. The appropriations made in this act, are in addition to the balance of the several appropriations remaining unexpended on the fifteenth day of November, eighteen hundred and fifty-one; and the Auditor of State is hereby authorized to transfer to the general revenue fund, any balances of other funds, which will be required for the purposes for which such funds are appropriated. Explanation.

SEC. 6. There shall be levied for the current year, upon the grand list of the State, in the manner prescribed by the act entitled "an act for the assessment and taxation of all property in this State, and for levying taxes thereon according to its true value in money," passed April 13th, A. D. 1852, for general revenue purposes, one mill on the dollar valuation, and for common school purposes, one half of one mill on the dollar valuation, and for canal and sinking fund, two mills on the dollar valuation, of the property on the grand list. Levy of current year.

SEC. 7. To Denig and Harris, for sundries for the use of the General Assembly, as per bill of April 21st, eighteen hundred and fifty-two, the sum of twenty-eight dollars and sixty-one cents. Denig and Harris.

George Abbott. To George Abbott, for scissors, punches, and sundry other articles, for the use of the House of Representatives, as per bill of January, one thousand eight hundred and fifty-two, the sum of fourteen dollars and forty-nine cents.

William Beswick. To William Beswick, his costs in the Morgan county case, of November twelfth, one thousand eight hundred and fifty-one, the sum of twenty-one dollars and twenty-nine cents.

M. W. Bliss. To M. W. Bliss, for work done on old State house, up to February third, one thousand eight hundred and fifty-two, twenty-five dollars.

James E. Gray. To James E. Gray, for painting and varnishing, done on and in old State house, as per bill of February sixteenth, eighteen hundred and fifty-two, the sum of one hundred eighty-six dollars and fifty cents.

N. S. Baker. To N. S. Baker, for curtains for windows for the Hall of the House, and clerk's rooms, the sum of seventeen dollars and seventy-five cents.

Claims against Penitentiary. For the purpose of paying claims against the Ohio Penitentiary, the sum of ten thousand dollars.

L. F. Claflin and Company. To L. F. Claflin and Company, for bill of paper for the use of the General Assembly, January thirtieth, eighteen hundred and fifty-two, the sum of one hundred dollars.

Whiting and Burr. To Whiting and Burr, per bill, Sand Boxes and Inkstands, the sum of nine dollars and thirteen cents.

E. Collins. To Mrs. E. Collins, for labor, the sum of two dollars.

Kilburn, Kughn & Co. To Kilburn, Kughn and Company, for work and materials for old State House, as per bill, dated January first, eighteen hundred and fifty-two, the sum of one hundred twenty-two dollars and ninety-four cents.

Dwight Stone & Co. To Dwight Stone and Company, for sundries for the General Assembly, as per bill of January seventh, eighteen hundred and fifty-two, the sum of twenty-eight dollars and thirty-five cents.

M. S. Baker. To M. S. Baker, for labor and materials for the Hall of Representatives, as per bill of February ninth, eighteen hundred and fifty-two, the sum of seventeen dollars and seventy-five cents.

John Stone. To John Stone, for carpet, and sundry articles, for old State House, the sum of forty-seven dollars and thirty-five cents.

J. D. Osborn. To J. D. Osborn, for mats, brooms, &c., for old State House, as per bill of December thirty-first, eighteen hundred and fifty-one, the sum of fourteen dollars and sixty-two cents.

J. Westwater & Son. To J. Westwater and Son, for sundries as per bill of December thirty-first, eighteen hundred and fifty-one; also bill of March third, eighteen hundred and fifty-two, the sum of twelve dollars.

Decker & Hibbs To Decker and Hibbs, for sundries for the use of the General Assembly, as per bill, six dollars and ninety-eight cents.

To J. Boswell and Son, for work and materials for State Library, old State House and the Odeon Hall, done in the winter of eighteen hundred and fifty-one and eighteen hundred and fifty-two, the sum of eight hundred and forty-eight dollars. J. Boswell and Son.

To A. Hardey, for repairs on old State House and Library, as per bill rendered, dated January twenty-fourth, eighteen hundred and fifty-two, the sum of twenty-seven dollars. A. Hardey.

To Kilburn, Kughn and Company, for bill of sundries, for the repairing the Halls of the General Assembly, the sum of seventy dollars and twenty-three cents. Kilburn, Kughn & Co.

To Columbus Gas Light Company, for light for the General Assembly, up to May third, eighteen hundred and fifty two, the sum of four hundred and ninety-two dollars and one cent. Gas light Co.

To L. F. Claflin and Company, for paper and stationery furnished the Senate, sixty-eight dollars and seventy-five cents. L. F. Claflin & Co.

SEC. 8. That no moneys by this act appropriated, shall be drawn from the treasury by any disbursing officer, or agent, until the same shall be necessary for the purpose to which it is herein directed to be applied. Moneys not to be drawn until needed.

JAMES C. JOHNSON,
Speaker of the House of Representatives.

WILLIAM MEDILL,
President of the Senate.

May 1, 1852.

SECRETARY OF STATE'S OFFICE,

COLUMBUS, OHIO, *July* 30, 1852.

I hereby certify that the foregoing acts are true copies of the original rolls now on file in this office.

WILLIAM TREVITT,
Secretary of State.

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Relative to confirming contracts for convict labor, in the Ohio Penitentiary. Passed March 12, 1852.

PERSONAL—

Relative to the invitation to Gov. Kossuth, to visit the capital of Ohio. Passed January 15, 1852.

Relative to compromising certain judgments against the Ohio Stage Company, and William Neil, in favor of the State of Ohio. Passed January 22, 1852.

Declaring the contract of Gov. Ford with John W. Allen, illega land void, and that the said Allen is not the agent for the State, for any purpose whatever. Passed March 11, 1852.

In relation to the decease of Jeremiah Morrow, late Governor of Ohio. Passed March 23, 1852.

Relative to the memorial of Benjamin P. Southworth. Passed April 28, 1852.

PRINTING—

Relative to the Printing of the Laws of the present session. Passed April 30, 1852.

Relative to printing Constitution with the General Laws. Passed May 3, 1852.

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